



भारत का राजपत्र The Gazette of India

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No. 48] NEW DELHI, NOVEMBER 23—NOVEMBER 29, 2014, SATURDAY/AGRAHAYANA 2—AGRAHAYANA 8, 1936

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 20 नवम्बर, 2014

का.आ. 2989.—केन्द्र सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री आनन्द ग्रोवर, अधिवक्ता को विशेष न्यायाधीश (2जी स्पेक्ट्रम मामले), के न्यायालय, केन्द्रीय अन्वेषण ब्यूरो, नई दिल्ली तथा अपीलीय रिवीजनल न्यायालयों में (2जी) स्पेक्ट्रम मुकदमों के अभियोजन, अपील/रिवीजन तथा इनसे संबंधित अन्य किसी मामले में अभियोजन के लिए विशेष अभियोजक नियुक्त करती है।

[सं. 225/59/2014-ए.वी.डी.-II]

राजीव जैन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 20th November, 2014

S.O. 2989.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Shri Anand Grover, Advocate, New Delhi as Special Public Prosecutor for conducting prosecution, appeals/revisions or other proceedings arising out of the cases related to 2G Spectrum investigated by the Delhi Special Police Establishment (CBI) in the Court of Special Judge (2G Spectrum cases), Central Bureau of Investigation, New Delhi and appellate/revisonal Courts.

[No. 225/59/2014-AVD-II]

RAJIV JAIN, Under Secy.

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 2990.—केन्द्र सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946, (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखण्ड राज्य सरकार गृह विभाग, रांची की दिनांक 30 अगस्त, 2014 की अधिसूचना सं.10/सीबीआई-604/2014/5799 द्वारा दी गई सहमति से भारतीय दंड संहिता, 1860 (1860 का अधिनियम सं. 45) की धारा 498-ए एवं 34 तथा संयोजित धारा 153-ए एवं 295-ए के अधीन कोतवाली (हिंदपीड़ी) में पंजीकृत मामला सं. 742/2014, दिनांक 19.8.2014 में तथा उससे संबद्ध अपराधों में किए गए दुष्प्रेरणाओं और षडयंत्रों तथा उसी संव्यवहार में किए गए अन्य अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों एवं क्षेत्राधिकार का विस्तार समस्त झारखण्ड राज्य में करती है।

[सं. 228/60/2014-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 2990.—In exercise of the powers conferred by sub-section (1) of Section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Jharkhand, Home Department, Ranchi vide Notification 10/CBI-604/2014/5799 dated 30th August, 2014, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Jharkhand for investigation in the Kotwali (Hindpidhi) Police Station Case No. 742/2014 dated 19.8.2014 under Section 498-A and 34 of the Indian Penal Code, 1860 (Act No. 45 of 1860) and added Sections 153-A and 295-A of the Indian Penal Code, 1860 (Act No. 45 of 1860), the abetment and conspiracy in relation to the above mentioned offences.

[No. 228/60/2014-AVD-II]

RAJIV JAIN, Under Secy.

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2991.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, एतद्वारा, भारतीय रिजर्व बैंक की सिफारिश पर घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खंड (ग) के उप-खंड (i) के उपबंध आन्ध्रा बैंक पर लागू नहीं होंगे, जहां तक उनका संबंध बैंक के अध्यक्ष एवं प्रबंध निदेशक

श्री सी.वी.आर. राजेन्द्रन, के मैसर्स इंडिया फर्स्ट लाइफ इश्योरेंस कंपनी लि. (आईएफएलआईसी) के बोर्ड में निदेशक के रूप में नामांकन से है।

[सं. 13/37/2013-बीओ-I]

मनीष कुमार, अवर सचिव

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 7th November, 2014

S.O. 2991.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Andhra Bank in so far as it relates to nomination of Shri C.V.R. Rajendran, Chairman and Managing Director, of the Bank on the Board of M/s. India First Life Insurance Co. Ltd. (IFLIC) as Director.

[No. 13/37/2013-BO-I]

MANISH KUMAR, Under Secy.

नई दिल्ली, 7 नवम्बर, 2014

का.आ. 2992.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा, घोषणा करती है कि उक्त अधिनियम की धारा 10 की उप-धारा (1) के खंड (ग) के उप-खंड (i) के उपबंध बैंक आफ इंडिया पर लागू नहीं होंगे, जहां तक उनका संबंध बैंक की अध्यक्ष एवं प्रबंध निदेशक श्रीमती वी. आर. अय्यर, के स्टार यूनियन डार्ड-इची लाइफ इश्योरेंस कंपनी लि. के बोर्ड में गैर-कार्यकारी अध्यक्ष के रूप में नामांकन से है।

[सं. 13/23/2012-बीओ-I]

मनीष कुमार, अवर सचिव

New Delhi, the 7th November, 2014

S.O. 2992.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Bank of India in so far as it relates to the nomination of Smt. V. R. Iyer, Chairman and Managing Director, of the Bank on the Board of Star Union Dai-Ichi Life Insurance Co. Ltd. as Non executive Chairperson.

[No. 13/23/2012-BO-I]

MANISH KUMAR, Under Secy.

नई दिल्ली, 11 नवम्बर, 2014

का.आ. 2993.—भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 8 की उप-धारा (1) के खंड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, डॉ. हसमुख अडिया, सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को डॉ. गुरदयाल सिंह संधू के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक, भारतीय रिजर्व बैंक के केन्द्रीय निदेशक मंडल में निदेशक नामित करती है।

[सं. 7/2/2012-बीओ-I]

मिहिर कुमार, निदेशक

New Delhi, the 11th November, 2014

S.O. 2993.—In exercise of the powers conferred by clause (d) of sub-section (1) of Section 8 of the Reserve Bank of India Act, 1934, the Central Government hereby nominates Dr. Hasmukh Adhia, Secretary, Department of Financial Services, Ministry of Finance, to be a Director on the Central Board of Directors of Reserve Bank of India with immediate effect and until further orders vice Dr. Gurdial Singh Sandhu.

[No. 7/2/2012-BO-I]

MIHIR KUMAR, Director

नई दिल्ली, 11 नवम्बर, 2014

का.आ. 2994.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खंड (ड) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, डॉ. हसमुख अडिया, सचिव, वित्तीय सेवाएं विभाग, वित्त मंत्रालय को डॉ. गुरदयाल सिंह संधू के स्थान पर तत्काल प्रभाव से और अगले आदेश होने तक, भारतीय स्टेट बैंक के केन्द्रीय निदेशक मंडल में निदेशक नामित करती है।

[सं. 7/2/2012-बीओ-I]

मिहिर कुमार, निदेशक

New Delhi, the 11th November, 2014

S.O. 2994.—In exercise of the powers conferred by clause (e) of Section 19 of the State Bank of India Act, 1955 (23 of 1955), the Central Government hereby nominates Dr. Hasmukh Adhia, Secretary, Department of Financial Services, Ministry of Finance, to be a Director on the Central Board of Directors of State Bank of India with immediate effect and until further orders vice Dr. Gurdial Singh Sandhu.

[No. 7/2/2012-BO-I]

MIHIR KUMAR, Director

नई दिल्ली, 26 नवम्बर, 2014

का.आ. 2995.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा, श्री राजीव महर्षि, सचिव, आर्थिक कार्य विभाग

एवं वित्त सचिव को श्री अरविंद मायाराम के स्थान पर तत्काल प्रभाव से और अगले आदेशों तक, उक्त निगम के सदस्य के रूप में नियुक्त करती है।

[सं. 14/3/2003-बीमा-IV]

एन. श्रीनिवास राव, निदेशक (बीमा)

New Delhi, the 26th November, 2014

S.O. 2995.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Sh. Rajiv Mehrishi, Secretary, Department of Economic Affairs and Finance Secretary as Member of the said Corporation vice Shri Arvind Mayaram, with immediate effect and till further orders.

[No. 14/3/2003-Ins.-IV]

N. SRINIVASA RAO, Director (Insurance)

विद्युत मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 2996.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, विद्युत मंत्रालय के प्रशासनिक नियंत्रणाधीन पावर सिस्टम ऑपरेशन कारपोरेशन लिमिटेड (पावरग्रिड की पूर्ण स्वामित्व प्राप्त सहायक कंपनी) के उत्तर-पूर्वी क्षेत्रीय भार प्रेषण केंद्र, डोंगती, लॉवर नंगरा, लापालांग, शिलांग-793 006 (मेघालय), जिसके 80 प्रतिशत कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्द्वारा अधिसूचित करती है।

[सं. -11017/10/2013-हिंदी]

डॉ. आर. सी. शर्मा, संयुक्त निदेशक (रा.भा.)

MINISTRY OF POWER

New Delhi, the 17th November, 2014

S.O. 2996.—In pursuance of Sub Rule (4) of Rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notify the North Eastern Regional Load Despatch Centre, Dongtieh Lower Nongrah, Lapalang, Shillong-793 006 (Meghalaya) of the power System Operation Corporation Ltd. (A Wholly owned subsidiary of Powergrid) under the administrative control of Ministry of Power, where 80% of the staff have acquired working knowledge of Hindi.

[No. 11017/10/2013-Hindi]

Dr. R. C. SHARMA, Jt. Director (O.L.)

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2997.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस प्रदान किए गए हैं :—

अनुसूची

क्र. लाइसेंस सं. संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं.	भाग	अनु	वर्ष	
1	2	3	4	5	6	7	8	9
1.	2902757	05 अगस्त, 2014	मैसर्स साईन इंजीनियरिंग प्लॉट नं. जी108-109ए, जी.आई.डी.सी. लोधीका, गाँव मेटोडा, तालुका लोधीका, जिला : राजकोट, गुजरात-360021	शीतल जल सेवाओं के लिए डायफ्राम टाइप के प्लास्टिक ढांचे के फ्लोट प्रचालित वाल्व - विशिष्ट	आई एस 13049	0	0	1991
2.	2902858	06 अगस्त, 2014	मैसर्स श्रीराम इंडस्ट्रीज प्लॉट नं. 139/17, जी.आई.डी.सी., फेज II, लिंवडी, जिला सुरेन्द्रनगर गुजरात-363421	आग बुझाने के लिए नान परकोलेटिंग फ्लेक्सिबल डिलीवरी होज (तीसरा पुनर्लेखन) - विशिष्ट	636	0	0	1988
3.	2903254	07 अगस्त, 2014	मैसर्स जे.एस. मार्केटिंग कुकडा फार्म रोड के पास, गुरू मिनरल के पीछे, राजकोट बाय पास रोड, खेराली, तालुका वढवन, जिला सुरेन्द्रनगर, गुजरात	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	0	0	2004
4.	2903052	07 अगस्त, 2014	मैसर्स अजंता मेन्युफेक्चरिंग लिमिटेड, “ओरपेटनगर”, 8अ राष्ट्रीय राजमार्ग, गांव वाँडिया, तालुका भचाउ, जिला कच्छ, गुजरात-370150	विद्युत उपस्कर - घरेलू और समान संस्थापनों के लिए ओवरकरंट से सुरक्षा हेतु परिपथ वियोजक भाग 1 प्रत्यावर्ती धारा के प्रचालन के लिए परिपथ वियोजक	60898	1	0	2002
5.	2903759	08 अगस्त, 2014	मैसर्स श्रीराम केमफुड प्राईवेट लिमिटेड, सर्वे नं. 341, गांव चोपाडवा, तालुका भचाउ, जिला कच्छ, गुजरात-370140	सामान्य नमक लौह-प्रबलित - विशिष्ट	12981	0	0	1991

1	2	3	4	5	6	7	8	9
6.	2903860	08 अगस्त, 2014	मैसर्स सरीता पम्प शिव शक्ति एस्टेट गली, उमिया आइस फैक्टरी के पीछे, ढेबर रोड, विराणी अघात, राजकोट, गुजरात-360 004	निमज्जनीय पम्प सेट की विशिष्टि	8034	0	0	2002
7.	2904155	12 अगस्त, 2014	मैसर्स चंदन पम्प विराणी अघात, शेड नं. 4, अशोक कार्स्टिंग के पीछे, ढेबर रोड, राजकोट, गुजरात-360 003	निमज्जनीय पम्प सेट की विशिष्टि	8034	0	0	2002

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

सं. चतुर्वेदी, वैज्ञानिक 'एफ' एवं प्रमुख

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION**(Department of Consumer Affairs)****(BUREAU OF INDIAN STANDARDS)**

New Delhi, the 18th November, 2014

S.O. 2997.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certificate) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	2902757	05.08.2014	M/s. Shine Engineering Plot No. G 108-109A, GIDC Lodhika, Village Metoda, Taluka Lodhika, Rajkot, Gujarat-360021	Diaphragm type (plastic body) float operated valves for cold water services	13049	0	0	1991
2.	2902858	06.08.2014	Shree Ram Industries Plot No. 139/17, GIDC, Phase-II, Limbadi, Surendernagar, Gujarat-363421	Non-percolating flexible fire fighting delivery (Third Revision)	636	0	0	1988
3.	2903254	07.08.2014	J. S. Marketing Near Kukda Farm Road, B/h Guru Mineral, Rajkot bypass Road, Surendernagar, Kherali, Gujarat	Packed drinking water (other than packaged natural mineral water)	14543	0	0	2004
4.	2903052	07.08.2014	Ajanta Manufacturing Ltd. Orpat Industrial Estate, Rajkot - Morbi highway, Morbi, District Rajkot, Gujarat-363641	Electrical accessories-circuit breakers for over current protection for household and similar installations Part 1 - circuit breakers for ac operation	60898	1	0	2002

1	2	3	4	5	6	7	8	9
5.	2903759	08.08.2014	Shree Ram Chemfood Pvt. Ltd., Survey No. 341, Village Chopadava, Taluka Bhachau, Kachchh, Gujarat-370140	Common salt - iron fortified	12981	0	0	1991
6.	2903860	08.08.2014	Sarita Pump Shiv Shakti Estate Street, B/H Shree Umiya Ice Factory, Dhebar Road, Virani Aghat, Rajkot, Gujarat-360004	Submersible pumpsets -	8034	0	0	2002
7.	2904155	12.08.2014	Chandan Pump Virani Aghat, Shed No. 4, Nr. Ahok Casting, Dhebar Road, Rajkot, Gujarat-360004	Submersible pumpsets -	8034	0	0	2002

[No. CMD/13:11]

S. CHATURVEDI, Scientist 'F' & Head

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2998.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस रद्द किए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम संबंध भारतीय मानक का शीर्षक	समाप्ति की तिथि
(1)	(2)	(3)	(4)	(5)
1.	3767580	मैसर्स भक्ति पम्पस देवर रोड, दक्षिण (अतीका), ओक्टोय नाका के बाहर, फील्ड मार्शल प्लोट के पास, राजकोट, गुजरात-360002	निमज्जनीय पम्पसेट की विशिष्टि	26 अगस्त, 2014
2.	3890276	मैसर्स श्री गणेश स्टील इंडस्ट्रीज ब्लॉक नं. 58/1, सीताराम वे ब्रीज के पीछे, मामसा, तालुका धोधा, जिला भावनगर, गुजरात-364001	कंक्रीट प्रवलन के लिए उच्च सामर्थ्य विकसित इस्पात छड़ और तार	28 अगस्त, 2014

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

सं. चतुर्वेदी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 18th November, 2014

S.O. 2998.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certificate) Regulations, 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below have cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No. CM/L	Name and address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
1.	3767580	M/s. Bhakti Pumps, Dhebar Road, South (Atika), Outside of Octroi Naka, Near Field Marshal Plot, Rajkot, Gujarat-360002	Submersible Pump-sets - Specification	26.08.2014
2.	3890276	Shree Ganesh Steel Industries, Block No. 58/1, B/h Sitaram Weighbridge, Talaja Road, Mamsa Taluka Ghogha, District Bhavnagar, Gujarat-364001	High Strength Deformed Steel Bars and Wires for Concrete Reinforcement	28.08.2014

[No. CMD/13:11]

S. CHATURVEDI, Scientist 'F' & Head

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 2999.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस प्रदान किए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं.	भाग	अनु	वर्ष
1	2	3	4	5	6	7	8	9
1.	2910049	01 सितम्बर, 2014	मैसर्स एक्सेल क्रोप केयर लिमिटेड, प्लॉट नं. 205-209, भुज मुन्द्रा रोड, केरा विलेज के पास, गांव गजोद, तालुका भुज, जिला : कच्छ, गुजरात-370430	विलेय सल्फर पाउडर -	3383	0	0	1982
2.	2911455	05 सितम्बर, 2014	मैसर्स सेन्चुरी केमीकल्स (डिविजन ऑफ सेन्चुरी टेक्सटाइल्स एण्ड इंडस्ट्रीज लिमिटेड), सेन्चुरी मिनरल्स एण्ड केमीकल डिवीजन, गांव एवं पोस्ट नवानागना, जिला : जामनगर, गुजरात-361001	आयोडीन युक्त नमक निर्वात वाष्पित आयोडीन युक्त नमक और रिफाइन्ड आयोडीन युक्त नमक	7224	0	0	2006

1	2	3	4	5	6	7	8	9
3.	2911354	05 सितम्बर, 2014	मैसर्स सुप्रीम टाइल्स जीआईडीसी के. 1/55, सनाला रोड, जिला राजकोट, गुजरात-363641	खड्गं के लिए पूर्व ढलित कॉक्रीट ब्लॉक -विशिष्ट	15658	0	0	2006
4.	2912356	08 अगस्त, 2014	मैसर्स फ्लोरेक्स पम्प इंडस्ट्रीज 8वीं राष्ट्रीय राजमार्ग, न्यू सरदार मार्केटिंग यार्ड के पास, सरदार टायर्स के सामने गोंडल, जिला राजकोट, गुजरात-360 311	निमज्जन पम्प सेटों के लिए मोटर्स - विशिष्ट	9283	0	0	2013
5.	2913459	09 सितम्बर, 2014	मैसर्स जी.एम. इंजी. प्रा.लि. प्लॉट नं. 2632, जी.आई.डी.सी. लोधिक, गांव मेटोडा, जिला राजकोट, गुजरात-360 021	जलकल के लिए स्लूस वाल्व (50 से 1200 मिमी साइज) के - विशिष्ट	14846	0	0	2000
6.	2913964	10 सितम्बर, 2014	मैसर्स जी.एम. इंजी. प्रा.लि. प्लॉट नं. 2632, जी.आई.डी.सी. लोधिक, गांव मेटोडा, जिला राजकोट, गुजरात-360 021	बटरफ्लाई वाल्व, सामान्य कार्यों के लिए	13095	0	0	1991
7.	2915867	12 सितम्बर, 2014	मैसर्स एस.के.एस. स्टील्स सर्वे नं. 36/43, जी.आई.डी.सी. 4, घांघली रोड, गांव वडीया, तालुक सिहोर, जिला भावनगर गुजरात-364 002	कंक्रीट प्रबलन के लिए उच्च सामर्थ्य विकसित इस्पात छड़ और तार	1786	0	0	1991
8.	2915766	15 सितम्बर, 2014	मैसर्स निधि एन्टरप्राइज ब्लॉक नं. 11 और 12, विश्वकर्मा सोसाइटी, महुली होटल के पीछे, एनएच 8अ, लिंबडी, जिला सुरेन्द्रनगर, गुजरात-363 421	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	0	0	2004
9.	2916970	17 सितम्बर, 2014	मैसर्स नरेश कुमार एण्ड कंपनी 12 भक्तिनगर स्टेशन प्लॉट, राजकोट, गुजरात-360 002	खूले कुएं के लिए निमज्जय पम्पसेट - विशिष्ट	14220	0	0	1994
10.	2918065	19 सितम्बर, 2014	मैसर्स कास्ट एण्ड ब्लोवर कं. (गुजरात) प्राइवेट लिमिटेड पीओ बॉक्स नं. 1009, त्रिशुल पम्प, आजी इंडस्ट्रीयल एस्टेट, 80 फिट रोड, राजकोट, गुजरात-360 003	कृषि और जल पूर्ति के लिए साफ और ठंडे पानी के बिजली के मोनोसेट पम्प - विशिष्ट	9079	0	0	2002

1	2	3	4	5	6	7	8	9
11.	2917972	19 सितम्बर, 2014	मैसर्स स्टैण्डर्ड इलेक्ट्रिकल्स सोमनाथ इंडस्ट्रीज एरिया, 66 फीट रोड, बालाजी घाटया राजमार्ग के सामने, कोठारीया, जिला राजकोट, गुजरात-360 003	निमज्जीय पम्पसेट की विशिष्टि	8034	0	0	2002
12.	2918166	19 सितम्बर, 2014	मैसर्स सीगनोर पोलिमर्स प्लॉट नं. जी 2045, राजमोती ओइल मील के सामने, मेटोडा जी.आई.डी.सी., तालुका लोधिका, जिला राजकोट, गुजरात-360 021	जल आपूर्ति हेतु उच्च घनत्व पॉलीइथाइलीन पाइप	4984	0	0	1995
13.	2918974	23 सितम्बर, 2014	मैसर्स कादंबरी पोलिप्लास्ट प्लॉट नं. जी 2109, अजंता टाइल्स के सामने, किशन गेट, गेलेक्सी स्टेम्पींग रोड के सामने, कालावाड रोड, जी.आई.डी.सी. मेटाडा, तालुका लोधिका, जिला राजकोट, गुजरात-360 007	जल आपूर्ति हेतु उच्च घनत्व पॉलीइथाइलीन पाइप	4984	0	0	1995
14.	2918469	23 सितम्बर, 2014	मैसर्स इंडीयन स्टील कोर्पोरेशन लिमिटेड, सर्वे नं. 370, गांव भीमसार, तालुका अंजार, जिला कच्छ, गुजरात-370 240	सतत् पूर्व - रोगनित जस्तीकृत इस्पात की चद्दरें एवं कुंडलियां	14246	0	0	1995
15.	2918772	23 सितम्बर, 2014	मैसर्स शाइन इंजीनियरिंग प्लॉट नं. जी 108-109ए, जी.आई.डी.सी. लोधिका, गांव मेटोडा, तालुका लोधिका, जिला राजकोट, गुजरात-360 021	शौचकुण्ड के लिए प्लास्टिक की पीठिका और ढक्कन - विशिष्टि भाग 2 ताप सुनम्य पीठिका और ढक्कन	2548	2	0	1996
16.	2919875	25 सितम्बर, 2014	मैसर्स जी.एम. इंजी. प्रा.लि. प्लॉट नं. 2632, जी.आई.डी.सी. लोधिका, गांव मेटोडा, जिला राजकोट, गुजरात-360 021	जलकल के लिए स्विंग चेक प्रकार के रिफलक्स वाल्व - विशिष्टि	5312	1	0	2004
17.	2920052	25 सितम्बर, 2014	मैसर्स कनकाई पाइप्स और फिटिंग्स प्राइवेट लिमिटेड सर्वे नं. 97, पाइकी 4, पडधरी - मोरबी रोड, उकरडा, जिला राजकोट, गुजरात-360 110	तप्त और अतप्त पेय जल वितरण व्यवस्था के लिए क्लोरीनकृत पॉलीविनायल क्लोराइड (सीपीवीसी) पाइप -	15778	0	0	2007

1	2	3	4	5	6	7	8	9
18.	2921155	26 सितम्बर, 2014	मैसर्स कनकाई पाइप्स और फिटिंग्स प्राइवेट लिमिटेड सर्वे नं. 97, पाइकी 4, पडधरी - मोरबी रोड, उकरडा, जिला राजकोट, गुजरात-360 110	पेयजल आपूर्ति के लिए अप्लास्टिक पीवीसी - पाइप विशिष्ट	4985	0	0	2000
19.	2920759	26 सितम्बर, 2014	मैसर्स ए-टोप पॉलीप्लास्ट प्लॉट नं. 22, श्री राम वे ब्रिज के पीछे, सदभावना इंडस्ट्रीयल एरिया, कोठारीया, जिला राजकोट, गुजरात-360 001	जल आपूर्ति हेतु उच्च घनत्व पॉलीइथाइलीन पाइप	4984	0	0	1995

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

सं. चतुर्वेदी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 18th November, 2014

S.O. 2999.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	2910049	01.09.2014	Excel Crop Care Ltd. Plot No. 205-209, Bhuj-Mundra Road, Near Kera Village, Village Gajod, Taluka Bhuj, Kachchh, Gujarat-370430	Wettable sulphur powder	3383	0	0	1982
2.	2911455	05.09.2014	Century Chemicals (A Division of Century Textiles and Industries Ltd.) Century Minerals and Chemicals Division, Village and Post : Nawanagna, Distt. Jamnagar, Gujarat-361001	Iodized Salt, Vacuum Evaporated Iodized Salt and Refined Iodized Salt - Specification	7224	0	0	2006
3.	2911354	05.09.2014	Supreme Tiles GIDC K-1/55, Sanala Road, Morbi, Distt. Rajkot Gujarat-363641	Precast concrete blocks for paving	15658	0	0	2006
4.	2912356	08.09.2014	Florex Pump Industries 8/B National Highway, Near New Sardar Marketing yard, Opp. Sardar tyres, Gondal, Distt. Rajkot Gujarat-360311	Motors for submersible pumpsets	9283	0	0	2013

1	2	3	4	5	6	7	8	9
5.	2913459	09.09.2014	G. M. Engg. P. Ltd. Plot No. 2632, GIDC Lodhika, Village Metoda, Rajkot Gujarat-360021	Sluice valve for water works purposes (50 to 1200 mm size)	14846	0	0	2000
6.	2913964	10.09.2014	G.M. Engg. P. Ltd. Plot No. 2632, GIDC Lodhika, Village Metoda, Rajkot Gujarat-360021	Butterfly valves for general purposes	13095	0	0	1991
7.	2915867	12.09.2014	SKS Steels Survey No. 36/43, GIDC 4, Ghanghali Road, Village Vadiya, Taluka Sihor, Bhavnagar, Gujarat-364002	High strength deformed steel bars and wires for concrete reinforcement	1786	0	0	2008
8.	2915766	15.09.2014	Nidhi Enterprise Block No. 11 & 12, Vishwakarma Society, B/H Hotel Madhuli, N.H. No. 8-A, Limbdi, Distt. Surenderanagar, Gujarat-363421	Packaged drinking water (other than packaged natural mineral water)	14543	0	0	2004
9.	2916970	17.09.2014	Naresh Kumar & Co. 12, Bhakti Nagar Station Plot, Rajkot, Gujarat-360002	Openwell Submersible Pumpsets-	14220	0	0	1994
10.	2918065	19.09.2014	Cast & Blower Company (Guj.) Pvt. Ltd. P.B. No. 1009, Trishul Pump, Aji Ind. Estate, 80 ft Road, Rajkot, Gujarat-360003	Electric monoset pumps for clear, cold water for agricultural and water supply purposes -	9079	0	0	2002
11.	2917972	19.09.2014	Standard Electricals Somnath Industries Area-4, 66 Feet Road, Opp. Balaji Ghatya National Highway Road, Kothariya, Rajkot, Gujarat-360003	Submersible Pumpsets-	8034	0	0	2002
12.	2918166	19.09.2014	Signor Polymers Plot No. G-2045, Opp. Rajmoti Oil Mill, Metoda GIDC, Taluka Lodhika, Rajkot, Gujarat-360021	High density polyethylene pipes for potable water supplies	4984	0	0	1995
13.	2918974	23.09.2014	Kadambari Polyplast Plot No. G-2109, Opp. Ajanta Tiles, Kishan Gate, Opp. Road of Galaxy Stamping, Kalavad Road, GIDC Metoda, At Metoda, Taluka Lodhika, Rajkot, Gujarat-360007	High density polyethylene pipes for potable water supplies	4984	0	0	1995
14.	2918469	23.09.2014	Indian Steel Corporation Ltd. Survey No. 370, Village Bhimasar, Taluka : Anjar, District : Kachchh, Gujarat-370140	Continuously pre-painted galvanised steel sheets and coils	14246	0	0	1995

1	2	3	4	5	6	7	8	9
15.	2918772	23.09.2014	M/s. Shine Engineering Plot No. G 108-109A, GIDC Lodhika, Village Metoda, Taluka Lodhika, Rajkot, Gujarat-360021	Plastic seats and covers for water-closets Part 2 thermo plastic seats and covers	2548	2	0	1996
16.	2919875	25.09.2014	G.M. Engg. P. Ltd. Plot No. 2632, GIDC Lodhika, Village Metoda, Rajkot Gujarat-360021	Swing check type reflux (non-return) valves for water works purposes - Part 1 : single-door pattern	5312	1	0	2004
17.	2920052	25.09.2014	Kankai Pipes & Fittings Pvt. Ltd. Survey No. 97, Paiki 4, Padhadhari - Morbi Road, Rajkot, Ukarda, Gujarat-360110	Chlorinated pvc pipes for potable hot and cold water distribution supplies	15778	0	0	2007
18.	2921155	26.09.2014	Kankai Pipes & Fittings Pvt. Ltd. Survey No. 97, Paiki 4, Padhadhari - Morbi Road, Ukarda, Rajkot, Gujarat-360110	Unplasticized pvc pipes for potable water supplies	4985	0	0	2000
19.	2920759	26.09.2014	A-Top Poly Plast Plot No. 22, Behind Shree Ram Way Bridge, Sadbhavna Industrial Area, Kthariya, Rajkot, Gujarat-360001	High density polyethylene pipes for potable water supplies	4984	0	0	1995

[No. CMD/13:11]

S. CHATURVEDI, Scientist 'F' & Head

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 3000.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस प्रदान किए गए हैं :—

अनुसूची

क्र. सं.	लाइसेंस संख्या	स्वीकृति करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भामा सं.	भाग	अनु	वर्ष
1	2	3	4	5	6	7	8	9
1.	2922864	08.10.2014	मैसर्स आफताब स्टील्स प्रा.लि. जामनगर जोडिया हाईवे, सर्वे नं. 319, रामसेवा आश्रम के पास, गांव खिरी, तालुका जोडिया, जिला : जामनगर, गुजरात-361001	सामान्य संरचना इस्पात में पुनर्वेल्लन के लिए कार्बन ढलवा इस्पात विलेट इंगट, विलेट, ब्लूम और स्लैब की विशिष्टि	2830	0	0	2012

1	2	3	4	5	6	7	8	9
2.	2924363	09.10.2014	मैसर्स जे. आर. कार्स्टिंग सर्वे नं. 41, घांघली रोड, गांव सिहोर, तालुका सिहोर, जिला : भावनगर, गुजरात-364240	सामान्य संरचना इस्पात में पुनर्वेल्लन के लिए कार्बन ढलवा इस्पात विलेट इंगट, विलेट, ब्लूम और स्लैब की विशिष्टि	2830	0	0	2012
3.	2925264	10.10.2014	मैसर्स न्युएज फायर फाइटिंग को. लि., प्लॉट नं. 86-87 93-94, एल.एम.एस. कम्पाउन्ड जीआईडीसी, फेज-1, बधवान, जिला सुरेन्द्रनगर, गुजरात-363001	आग बुझाने के लिए नान परकोलेटिंग फ्लेक्सिवल डिलीवरी होज - विशिष्टि	636	0	0	1988
4.	2925163	10.10.2014	मैसर्स न्युएज फायर फाइटिंग को. लि., एनकेवी हाउस, पॉ बॉक्स नं. 14, जिला सुरेन्द्रनगर, गुजरात-360004	अग्निशमन के लिए नियंत्रित अंतःप्रावी होज - विशिष्टि	8423	0	0	1994
5.	2926064	13.10.2014	मैसर्स पार्थ इंडस्ट्रीज प्लॉट नं. 4, मारूती इंडस्ट्रीयल एरिया, रोलेक्ष बेरींग के पीछे, गोंडल रोड, कोठारीया राजकोट, गुजरात-360 004	खूले कुएं के लिए निमज्ज्य पम्पसेट - विशिष्टि	14420	0	0	1994
6.	2926367	13.10.2014	मैसर्स देव बेवरेजीस घनश्याम नगर, प्लॉट नं. 32, हीरो होन्डा शोरूम के पीछे, जुनागढ़ हाइवे, मानाबदर, जिला जुनागढ़, गुजरात-363 001	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	0	0	2004
7.	2926670	15.10.2014	मैसर्स रीओना लेमीनेट प्रा. लि., 8-ए राष्ट्रीय धोरीमार्ग, सरतानपुर रोड, गांव सरतानपुर, बाकानेर, जिला राजकोट, गुजरात-363 621	सजावटी थर्मोसेटींग संश्लिष्ट रेजिनबद्ध परतदार चादरें - विशिष्टि	2046	0	0	1995
8.	2927167	16.10.2014	मैसर्स रेडवोप केमीकल प्रा. लि., प्लॉट नं. 1-वी, सर्वे नं. 160, जय इंटरनेशनल स्कूल के पास, कालावाड रोड, गांव छापरा, तालुका लोधीका, जिला राजकोट, गुजरात-360 021	सीमेंट मोर्टार एवं कंक्रीट के लिए एकीकृत जलसह यौगिक, द्वय	2645	0	0	2003

1	2	3	4	5	6	7	8	9
9.	2927874	16.10.2014	मैसर्स डेल्टा पम्प इंडस्ट्रीज प्लॉट नं. 52, सर्वे नं. 43/1, 150 फीट रिंग रोड, पुनीत नगर वॉटर टैंक के सामने, बावडी इंडस्ट्रीयल एरिया, राजकोट, गुजरात-360 004	निमज्जीय पम्पसेट की विशिष्टि	8034	0	0	2002
10.	2928169	17.10.2014	मैसर्स अमुल पम्प इंडस्ट्रीज 16, सम्राट इंडस्ट्रीयल एरिया, गोंडल रोड, एस. टी. वर्कशॉप के पीछे, राजकोट, गुजरात-360 004	निमज्जीय पम्पसेट की विशिष्टि	8034	0	0	2002
11.	2928371	17.10.2014	मैसर्स अमुल पम्प इंडस्ट्रीज 16, सम्राट इंडस्ट्रीयल एरिया, गोंडल रोड, एस. टी. वर्कशॉप के पीछे, राजकोट, गुजरात-360 004	खूले कुएं के लिए निमज्ज्य पम्पसेट - विशिष्टि	14220	0	0	1994
12.	2929171	21.10.2014	मैसर्स आशी इंजीनियरिंग वर्क्स दर्शन पार्क, राकेश मशीन टुल्स के सामने, बेरावल (शापर) जिला राजकोट, गुजरात-360 024	जंग रोधक हाई एलॉय स्टील से बने लैंडिंग वाल्व - विशिष्टि	5290	0	0	1993
13.	2930257	22.10.2014	मैसर्स लाईफ लिक्विड बेवरेजीस एवं फूड्स कं., प्लॉट नं. 55-56, श्री सहजानंद कर्मसियल सेन्टर-2, वेल्स्पुन विद्या मंदिर के सामने, अंजार-बरसामेडी रोड, अंजार मानाबदर, जिला कच्छ, गुजरात-370 110	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	14543	0	0	2004
14.	2930459	27.10.2014	मैसर्स सुखी एन्टरप्राइज प्लॉट नं. 1, सर्वे नं. 238/245/246, लाखाबावड, नाधेडी के पास, खोडियार कालोनी, जिला जामनगर, गुजरात-361 006	खड्ग के लिए पूर्व ढलित कंकरीट ब्लॉक -विशिष्टि	15658	0	0	2006
15.	2932968	31.10.2014	मैसर्स जय बजरंग सीमेन्ट प्रोडक्ट्स, प्लॉट नं. 11, गौर्बकल्याणपर, तालुका टंकारा, जिला राजकोट, गुजरात-363 650	पूर्व ढलित कंकरीट मेनहोल के ढक्कन व फ्रेम -विशिष्टि	12592	0	0	2002

1	2	3	4	5	6	7	8	9
16.	2932665	31.10.2014	मैसर्स फ्लोमेन पम्पस व मोटर्स, गोंडल रोड, कोठारिया फाटक के पास, सरदार एस्टेट के पीछे, एटलास पार्क 2, कोठारिया, जिला राजकोट, गुजरात-360 003	निमज्जीय पम्पसेट की विशिष्टि	8034	0	0	2002

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

सं. चतुर्वेदी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 18th November, 2014

S.O. 3000.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	2922864	08.10.2014	Aftab Steels Pvt. Ltd. Jamnagar - Jodiya Highway, Survey No. 319, Near Rameseva Ashram, Village Khiri, Jamanagar, Gujarat-361001	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830	0	0	2012
2.	2924363	09.10.2014	J. R. Casting Survey No. 41-P, Ghanghali Road, Sihor, Bhavnagar, Gujarat-364240	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830	0	0	2012
3.	2925264	10.10.2014	Newage Fire Fighting Co. Ltd. Plot No. 86-87 & 93-94, LMS Compound, GIDC, Phase-1, Wadhawan, Surendranagar, Gujarat-363001	Non-percolating flexible fire fighting delivery hose (Third Revision)	636	0	0	1988
4.	2925163	10.10.2014	Newage Fire Fighting Co. Ltd. NKB House PO Box No. 14, Surendranagar, Gujarat-363001	Controlled percolating hose for fire fighting	8423	0	0	1994
5.	2926064	13.10.2014	Parth Industries Plot No. 4, Maruti Industrial Area, B/H Rolex Bearing, Gondal Road, At Kothariya, Rajkot, Gujarat-360004	Openwell Submersible Pumpsets	14420	0	0	1994

1	2	3	4	5	6	7	8	9
6.	2926367	13.10.2014	Dev Beverages Ghanashyam Nagar, Plot No. 32, Behind Hero Honda Showroom, Junagadh Highway, Junagadh, Manavadar, Gujarat-362630	Packaged drinking water (other than packaged natural mineral water)	14543	0	0	2004
7.	2926670	15.10.2014	Riona Laminate Pvt. Ltd. 8-A National Highway, Sartanpar Road, At : Sartanpar, Wakaner, Rajkot, Sartanpar, Gujarat-363621	Decorative thermosetting synthetic resin bonded laminated sheets -	2046	0	0	1995
8.	2927167	16.10.2014	Redwop Chemicals Pvt. Ltd. Plot No. 1-B, Survey No. 160, Near Jay International School, Kalawad Road, Village Chhapara, Taluka Lodhika, Rajkot, Gujarat-360021	Integral cement waterproofing compounds	2645	0	0	2003
9.	2727874	16.10.2014	Delta Pump Industries Plot No. 52, Survey No. 43/1, 150 feet Ring Road, Opp. Punit Nagar Water Tank, Vavadi Industrial Area, Rajkot, Gujarat-360004	Submersible Pumpsets-	8034	0	0	2002
10.	2928169	17.10.2014	Amul Pump Industries 16, Samrat Industrial Area, Gondal Road, B/H S.T. Workshop, Rajkot, Gujarat-360004	Submersible Pumpsets-	8034	0	0	2002
11.	2928371	17.10.2014	Amul Pump Industries 16, Samrat Industrial Area, Gondal Road, B/H S.T. Workshop, Rajkot, Gujarat-360004	Openwell Submersible Pumpsets-	14220	0	0	1994
12.	2929171	21.10.2014	Aashi Engineering Works Darshan Park, Opp. Rajkesh Machine Tools, Rajkot, Veraval (Shapar) Gujarat-360024	Landing valves	5290	0	0	1993
13.	2930257	22.10.2014	Life Liquid Beverages & Foods Co., Plot No. 55-56, Shree Salajanand Commercial Centre-2, Opp. Welspun Vidhya Mandir, Anjar, Varshamedi Road, Kachchh, Anjar, Gujarat-370100	Packaged drinking water (other than packaged natural mineral water)	14543	0	0	2004

1	2	3	4	5	6	7	8	9
14.	2930459	27.10.2014	Sukhi Enterprise Plot No. 1, Survey No. 238/245/246 Lukhabavad, Near Naghedi, Jamnagar, Khodiyar Colony, Gujarat-361006	Precast concrete blocks for paving	15658	0	0	2006
15.	2932968	31.10.2014	Jay Bajarang Cement Products Plot No. 11, Village : Kalyanpar, Taluka : Tankara, Rajkot, Gujarat-363650	Precast concrete manhole cover and frame -	12592	0	0	2002
16.	2932665	31.10.2014	Floman Pumps & Motors Gondal Road, Near Kothatiya Fatak, B/h Sardar Estate, Atlas Park-2, At Kothariya, Rajkot, Gujarat-360003	Submersible Pumpsets-	8034	0	0	2002

[No. CMD/13:11]

S. CHATURVEDI, Scientist 'F' & Head

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 3001.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम 1988 के विनियम 4 के उपविनियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस रद्द किए गए हैं :-

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम संबंध भारतीय मानक का शीर्षक	रद्दीकरण तिथि
(1)	(2)	(3)	(4)	(5)
1.	3959791	मैसर्स बालाजी मीनरल्स कैलाश नगर, जे के वी होल के पास, कालावड, जिला जामनगर, गुजरात-361160	पैकेजबन्द पेय जल (पैकेजबन्द प्राकृतिक मिनरल जल के अलावा)	29 अक्टूबर, 2014

[सं. केन्द्रीय प्रमाणन विभाग/13:11]

सं. चतुर्वेदी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 18th November, 2014

S.O. 3001.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988 of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below have cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licence No.	Name and address of the Licensee	Article/Process with relevant Indian Standards covered by licence cancelled/suspension	Date of Cancellation
1.	3959791	M/s. Balaji Minerals Kailash Nagar, Near J.K.V. Hall, Kalawad, Distt. : Jamnagar, Gujarat-361160	Packaged drinking water (other than packaged natural mineral water)	29.10.2014

[No. CMD/13:11]

S. CHATURVEDI, Scientist 'F' & Head

स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

शुद्धिपत्र

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 3002.—इस मंत्रालय की दिनांक 5 मई, 2012 की अधिसूचना सं. यू-12012/23/2012-एमई (पी. II) में आंशिक संशोधन करते हुए केन्द्र सरकार उक्त अधिनियम की धारा 11 की उप-धारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय चिकित्सा परिषद अधिनियम, 1956 (1956 का 102) की पहली अनुसूची में आगे संशोधन करती है :

उक्त अधिसूचना की मद संख्या (ज) में “डॉक्टर ऑफ मेडीसिन (फिजियोलाजी) अर्हता के सामने”

कमांड अस्पताल, कलकत्ता को मई, 2011 व उसके बाद शब्दों व आंकड़ों

के स्थान पर निम्नानुसार पढ़ा जाए :

“बर्धवान मेडीकल कॉलेज, बर्धवान को जुलाई, 2011 और उसके बाद”।

[सं. यू-12012/23/2012-एमई (पी. II)]

सुधीर कुमार, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 18th November, 2014

S.O. 3002.—In partial corrigendum to this Ministry's Notification No. U-12012/23/2012-ME (P. II) dated 5th May, 2012 relating to further amendments in the First Schedule to the Indian Medical Council Act, 1956 (102 of 1956) by the Central Government under powers conferred to it by sub-section (2) of Section 11 of the said Act, under item No. (h) of the said notification, against the qualification “Doctor of Medicine (Physiology),”

the words and figures “Command Hospital, Kolkata in or after May, 2011”

shall be substituted by and read as

“Burdwan Medical College, Burdwan on or after July, 2011”.

[No. U-12012/23/2012-ME (P. II)]

SUDHIR KUMAR, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 3003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 70/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/77/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th November, 2014

S.O. 3003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 70/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/77/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 70 of 2012

Reference No. L-40012/77/2012-IR(DU)

dated 7.01.2013

Shri Mohan Singh son of
Shri Makhan Singh,
resident of Village Lakhmire Uttar,
PO Mamdoot, Tehsil & District Ferozepur

...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur

...Respondent

Appearances :

For the Workman : None

For the Management : Sh. Anish Babbar

AWARD

Passed on : 07.11.2014

Government of India, Ministry of Labour vide notification No. L-40012/77/2012-IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication :

Term of Reference:

“Whether the demand of Shri Mohan Singh son of Shri Makhan Singh against the General Manager/ DET/SDE, BSNL, Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter?”

2. Case repeated called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 17 नवम्बर, 2014

का.आ. 3004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड, फिरोजपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 69/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/78/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 17th November, 2014

S.O. 3004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 69/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited, Ferozepur and their workman, which was received by the Central Government on 14/11/2014.

[No. L-40012/78/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I,
CHANDIGARH**

Case No. ID 69 of 2012

Reference No. L-40012/78/2012-IR(DU)

dated 7.01.2013

Shri Pritpal Singh son of
Shri Bakhshish Singh,
resident of Village Dilla Ram,
PO Jhok, Tehsil & District Ferozepur

...Workman

Versus

1. The General Manager,
Telecom BSNL,
Bharat Nagar Chowk,
Ferozepur

...Respondent

Appearances :

For the Workman : None

For the Management : Sh. Anish Babbar

AWARD

Passed on : 07.11.2014

Government of India Ministry of Labour vide notification No. L-40012/78/2012-IR(DU) dated 07.01.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the demand of Shri Pritpal Singh son of Shri Bakhshish Singh against the General Manager/DET/SDE, BSNL, Ferozepur for reinstatement in service w.e.f 16.7.11 is just, valid and legal? If so, what benefits the workman are entitled for and what directions are necessary in the matter.”

2. Case repeatedly called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent is present. It appears that the workman is not interested to pursue the present reference. In view of the above, the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
07.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 3005.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 138/97, शिकायत संख्या 11/2013 और 12/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-42012/170/1996-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 3005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award : Complaint No. 11/2013 & 12/2013, arising out of Ref. 138/97 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 18/11/2014.

[No. L-42012/170/1996-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO.1), DHANBAD**
IN THE MATTER OF A COMPLAINT U/S 33 (A) OF
I.D. ACT, 1947

COMPLAINT NO. 11/2013

Arising out of Ref. 138/97

Ministry's Order No. L-42012/170/96-IR(C-II)

1. Md. Shaukat Ali, Ex- Manager (Depot)
S/o Abdul Sattar
Food Corporation of India,
Food Storage Depot, Buxer

2. Kedar Nath Tiwary, Ex-AG-I(D)
S/o Late Narsingh Tiwary
Food Corporation of India,
Food Storage Depot Buxer

...Complainant

Vs.

Executive Director, (East)
Food Corporation of India,
10A Middleton Row, Kolkata-71

...Opp. Party

COMPLAINT NO. 12/2013

Arising out of Ref. 138/97

Ministry's Order No. L-42012/170/96-IR(C-II)

1. U.C Roy, Ex-Manager (A/C)
Food Corporation of India
2. Suman Bhai Patel
Ex- Manager (QC)
Food Corporation of India

...Complainant

Vs.

1. Executive Director (EZ)
Food Corporation of India
10 A Middleton Row,
Kolkata-71
2. Chairman-cum-Managing Director
Food Corporation of India,
16-20 Barakhamba Lane
New Delhi-110001

...Opp. Party

Present : Sri Ranjan Kumar Saran, Presiding Officer**Appearances :**

For Complainant : Sri Vijayendra Kumar, Zonal
President, FCIESU

For Opp. Party : Sri Avinash Kumar,
(Zonal Office Kolkata) Dy. G.M. Legal

State : Bihar

Industry : Food

Dated 9.6.2014

AWARD

1. These both complaints case filed under section 33 A of the Industrial Disputes Act 1947, submitted by Sri Vijayendra Kumar, Zonal President, FCIESU, under the authority of the complainants, on behalf of the above named complainant (workmen).

2. Both Complaint cases are similar in nature and both are arising out of Ref. case no. 138 of 1997, hence both are heard jointly. A common award passed as hereunder.

3. The dismissed employees here in after called as complaint filed application U/S 33(2), praying to declare the action of the management is illegal.

4. The case of the workmen is that a dispute of the present group of workmen along with others is pending before this Tribunal for disposal. But during the pendency of the dispute the management on flimsy allegations, dismissed the workmen without proper enquiry in violation of Sec 33 (2) of the I.D Act.

5. On the other hand, the case of the management is the present workmen were not the workmen concerned of that dispute and as such as management they are at liberty to initiate disciplinary action against the workman for lapses and can take any action as per their laws.

6. The learned workmen representative submitted that dispute relating payment of overtime of all the employees pending before this Tribunal bearing Ref.No. 138/97. But the management representative submitted that for serious

lapses, management have to take stringent action. That is true but as per U/S 33(2) , the management ought to have obtained approval from Tribunal to justify their action and must pay one month salary after dismissal. It is not clear from the pleadings of the opp. Party. Whether one months salary has been paid to the dismissed workman or not. But what ever it may be a dispute concerning all the workman of F.C.I., is pending before this Tribunal for disposal.

7. It is submitted by the management that one of the workman of the case of applicant Compt. 11/2013 and both applicant of Compt 12/13 is in managerial grade and not a workman and as such provisions of I.D. Act, 1947 is not applicable. On the other hand it is submitted by the workman representative that an Assistant Manager does not officiate in a supervisory post as decided by Vajpayee Committee and followed by Delhi High Court decision, decided by Justice Muralidhar in W.P.(C) 2084/ 1988. The management could not file any contrary decision. Hence it is held that the applicant is a workman and he is affected by decision of management, while the reference was pending.

8. Asking for approval of the tribunal, relating to action of management would not be little the dignity to the management. The Hon'ble Apex Court in clear tone has observed, while a dispute what ever sort that may be pending before the Tribunal approval must be obtained from the tribunal to justify its action and a decision to that effect reported in A.I.R. 2002 SC 643(i). For deciding the present case, this Tribunal do not want to comment on the reference case no. 138/97 pending against the workman which is yet to be decided.

9. Considering the facts and circumstances of all the cases, I hold that the action of the management is illegal and not justified. Hence the workman be treated as workman in continuous service from the date of their dismissal by the Opp. Party. Accordingly, the complaint is allowed and action of the management held illegal.

This is my Award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 18 नवम्बर, 2014

का.आ. 3006.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 138/97, शिकायत संख्या 13/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-42012/170/1996-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 18th November, 2014

S.O. 3006.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award : Complaint No. 13/2013, arising out of Ref. No. 138/97 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 18/11/2014.

[No. L-42012/170/1996-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.1), DHANBAD

IN THE MATTER OF A COMPLAINT U/S 33 (A) OF I.D.
ACT, 1947

COMPLAINT NO. 13/2013

Arising out of Ref. 138/97

Ministry's order No. L-42012/170/96-IR(C-II)

Manoj Kumar
S/o Late Chote Lal
Ex- Asstt. Grade-I (D)

Distt. Office,
Firdaous Building,
Exhibition Road, Patna
Residing at East Ashok Nagar,
Patna-20

...Complainant

Vs.

Executive Director, (East)
Food Corporation of India,
10A Middleton Row,
Kolkata-71

...Opp. Party

Present : Sri Ranjan Kumar Saran, Presiding Officer

Appearances :

For Complainant : Sri Vijayendra Kumar, Rep.

For Opp. Party : Sri Avinash Kumar,
Dy. G.M. Legal

State : Patna

Industry : Food

Dated 9.6.2014

AWARD

1. These complaints Case is filed under section 33 A of the Industrial Disputes Act 1947, submitted by Sri Manoj Kumar, Ex-Asstt, Grade-I(D). The Complaint cases is arising out of Ref. case no. 138 of 1997.

2. The dismissed employees here in after called as complaint filed application U/S 33(2) praying to declare the action of the management illegal.

3. The case of the workmen is that a dispute of the present workmen is pending before this Tribunal for disposal. But during the pendency of the dispute the management on flimsy allegations, dismissed the workmen without proper enquiry in violation of Sec. 33 (2) of the I.D. Act.

4. On the other hand, the case of the management is that, the present workmen were not the workmen concerned of that dispute and as such, the management has liberty to initiate disciplinary action against the workman for lapses and can take any action as per their laws.

5. The learned workmen representative submitted that dispute relating payment of overtime of the employees pending before this Tribunal bearing Ref.No. 138/97. But the management representative submitted that for serious lapses, management have to take stringent action. That is true but as per U/S 33(2), the management ought to have obtained approval from Tribunal to justify their action and must pay one month salary after dismissal. It is not clear from the pleadings of the opp. party. Whether one month's salary has been paid to the dismissed workman or not. But what ever it may be a dispute concerning all the workman of F.C.I., is pending before this Tribunal for disposal.

6. Asking for approval of the Tribunal, relating to action of management would not be little the dignity of the management. The Hon'ble Apex Court in clear tone has observed, while a dispute what ever sort that may be pending before the Tribunal approval must be obtained from the Tribunal to justify its action and a decision to that effect reported in A.I.R 2002 SC 643(i). For deciding the present case, this Tribunal do not want to comment on the Reference case no. 138/97 pending against the workman which is yet to be decided.

7. Considering the facts and circumstances of all the cases, I hold that the action of the management is illegal and not justified, Hence the workman be treated as workman in continuous service from the date of their dismissal by the Opp. Party. Accordingly the complaint is allowed and action of the management held illegal.

This is my Award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3007.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ.सी.आई. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 76/2007)

को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/548/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/548/1999-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/76/07

The President,
Dainik Vetan Bhogi &
Hamaal Mazdoor Union,
Behind Peeli Building,
Fafadih, Raipur (MP)

...Workman/Union

Versus

Sr. Regional Manager,
Food Corporation of India,
Chetak Building, M.P. Nagar,
Habibganj, Bhopal

District Manager,
Food Corporation of India,
Madina Building,
Kutchery Chowk,
Raipur

...Management

AWARD

Passed on this 3rd day of November, 2014

1. As per letter dated 20-7-07 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No.L-22012/548/99-IR(CM-II). The dispute under reference relates to:

“ Whether the demand of the Union for providing employment to Shri Mohan Lahri and 117 other retrenched workers (list enclosed) of KAPA Depot

is legal and justified? If yes, to what relief are the workmen entitled to?”

2. Present dispute is raised by President, Dainik Vetan Bhogi & Hamaal Mazdoor Union. After receiving reference, notices were issued to the parties. Statement of claim is filed by Union at Page 6/1 to 6/7. Case of workman is that above said Union is registered under Trade Union Act. That the workers referred in the list attached with order of reference are members of said Union. The aim and object of Union is to protect right and endeavour for welfare of the members of the Union. That FCI is corporation controlled by Govt. of India. It has zonal regional offices all over the country. For purpose of effective running of loading, unloading work, handling and transport contractors were appointed by FCI. The FCI was established on Kappa at Raipur in the year 1977. Handling and Transport contractor were appointed for loading, unloading work. The contractors upto 1989 were appointed for the work. The workers shown in the list with the order of reference were engaged for handling and transport work. The contractors were changed time to time but some workers were discontinued. That during 1977 to 1989 about 300 mazdoors were engaged, many workers left job for their harassment and ill treatment by management. About 155 persons were working in 1989.

3. It is further submitted that from 1989 onwards, system of handling and transport contractors were discontinued and a scheme known as Mate system was introduced to FCI Depot. Under said system, mate was nominated for each depot who in turn executes agreement with the Depot Manager under whose jurisdiction the depot falls. In terms of said agreement, mate system was made responsible for carrying out loading unloading works. Mate himself used to distribute payment to employees. The workman though continuously working since 1977 they were treated as labour or contractors and FCI insisting that they were not its employees. Works were given benefit like leave, pay scale, placement, promotion as admissible to regular employees. In 1990, various Trade Unions and their workers working in FCI through out the country made demand for departmentalization and regularization of handling of loading/ unloading mazdoors. It was emphasized that there was no reason to continue the mate system. That by notification dated 1-11-90, workman working in 69 depot of FCI were regularized. They were made regular employees of Corporation. In said notification, 15 depots in MP were regularized. Ist party workman further submits that they were not regularized. They raised dispute before RLC. The failure report was submitted. Assurance was given for their absorption of new depot opened in the near by area. That new depot were opened. However they were not regularized. Management had appointed new workers. It is submitted that the act of management is unjustified. It is illegal being in

contravention of provisions of ID Act. In all such ground, Ist party is claiming for departmentalization of those workers since 1989.

4. Management filed exhaustive written Statement at Page 1 to 23. It is submitted that the Union is not registered under Trade Union Act. It is not competent to raise dispute. Union is registered with Dy.Registrar Cooperative Society, Raipur on 27-12-97. The reference is bad and illegal. That FCI is constituted by Govt. of India. It deals with imports, storage of Food grains. That departmentalization of 118 workman is claimed. That Kapa depot is not existing due to closure in 1988-89. The claim is not tenable. Ist party is not representative of Union, it is not competent to raise the dispute.

5. It is submitted that in 1989, contract system was prevailing. The entire work of handling and transportation including engaging labours was carried by contractors. The contractor used to appoint labours from open market and get work done. The remuneration was paid to labour directly. There was no economic, administrative or disciplinary control by FCI over these workers. From 26-9-89, mate system was introduced. Mate was responsible for payments to the workers vide Notification dated 1-11-90. Govt. of India prohibited employment of contract labors in FCI godowns, contract system was completely abolished. After introduction of made system, the mate was responsible for complying the requirements of labour laws contributing EPF, PWAct etc. Mate was also required to obtain licence under CL(R&A)Act, 1970. That depot incharge used to prepare work schedule taking into account availability of workers. Mate system was continued till 31-12-93.

6. From 1-1-1994, direct payment system was introduced in FCI. It is emphasized that there is no employer employee relationship between parties. It is reiterated that Kapa depot was closed in 1988-89. FCI was having own set of rules for recruitment of departmental labours. Therefore claim of workman can not be allowed by back door entry. IInd party admits that Govt. of India, Ministry of Labour vide order dated 20-7-07 has referred dispute. There is no employer employee relationship. The labours were never engaged by FCI. The earlier contentions that Union was not registered under Trade Union Act 1956 rather the Union was registered under Society Act. That workers were engaged by handling and transport contractors for two years. The contractors used to extent benefit of labour laws. Workman cannot be treated at par with departmental workers for purpose of regularization. All other contentions of workman have been denied. That working of Arjuni depot was started on 30-12-98 deploying existing labours of Dhamtari depot. The labours were also appointed by FCI on 12-4-91 at Dhamtari. The operational point at Chittor FCI is having no godowns,

the stock is kept in Stare warehousing Corporation. The contention of Ist party workman are denied. That if assurance was given of opportunity in view of appointment is denied. It is denied that new appointments of labours are made contrary to the assurance given. It is submitted that since those workers were not working in FCI, question of their regularization/ departmentalization doesnot arise. On such ground, IInd party prays for rejection of claim.

7. Ist party workman submitted rejoinder consistent with their statement of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|------------------------|
| (i) Whether the demand of the Union for providing employment to Shri Mohan Lahri and 117 other retrenched workers (list enclosed) of KAPA Depot is legal and justified? | Partly in
Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final
order. |

REASONS

9. The dispute between parties relates to claim for regularization of 118 labours. Their claim is denied by IInd party. The affidavit of evidence are submitted by Shri Jodhiram Markam, Chetan Das & Mohanlal supporting claim of Ist party workman raised in statement of claim. To be precise all of them are stating that they were working in FCI since 1977. The contractors were changed but workmen continued on working. That 118 workers are involved. From 1989 mate system was introduced, from 1990 it was discontinued. They were assured their regularization. Despite of repeated assurances, they were not regularized. Jodhiram in his cross-examination says during 1977-89 he was working with contractor Rajaram Sharma and Railway contractor. The contractors were for period of 2 ½ years. Initially they were paid 75 paise per bag. It was increased to Rs.2, 2 ½ per bag. The contractors were changing but work was continued. After contractors were discontinued, their wages were not paid. Management was giving assurances but they were not regularized. Chetan Das, Mohanlal in their cross-examination also stated similar to him.

10. Management's witness Shri Vikrant Vishwakarma supported contentions of IInd party in Written Statement. However in his cross-examination, circulars referred in Para-4 of his affidavit are produced on record. he was unable to tell total number of depots in Chhattisgarh, he was unable to tell since when Kapa project was started but his working started in 1988-89. No record is available

about the contractors engaged in Kapa Depot, no record is available what works were assigned to contractors. He did not see any record about transporting work carried by contractors. He did not see any record about payment made to the contractors. In 1989, after abolition of contract system, mate system was introduced. He was unable to tell whether labor working in contract system, same were working in mate system. Management's witness was not able to tell whether 117 workers in this case were working in contract system as well as mate system. However IInd party has admitted list of workers Exhibit W-2, W-1 is letter by management expressing inability to accommodate those workers. W-3 is certificate of Registration under Trade Union Act 1926. The objection of IInd party that Union is registered under Company's Act is deleted from said document (Exhibit W-3). The contentions of management in that regard cannot be accepted. The list of workers is admitted. The registration certificate is admitted. He circulars are produced by management. Exhibit M-1 is notification dated 1-11-90. In 62 depots, contract system was abolished. The workman in present case cannot be discriminated. Similar benefit deserves to be allowed to those workman. At the time of argument, learned counsel for workman Shri A.K. Shashi was unable to tell out of 118 labours, how many labours are still surviving therefore there cannot be blank order allowing benefits to all 118 workers. In view of no evidence is adduced by all labours, it is not asserted whether all the workers are still surviving therefore proper decision needs to be given.

11. Learned counsel for workman Shri A.K. Shashi has produced copy of award passed in R/16/94, same view in the matter needs to be taken. Circular w.r.t. direct payment system is not produced on record. when Direct payment system is introduced through out the country and contract system has been abolished, the workers deserves benefit of direct payment system in this case also instead of regularization or departmentalization of services of those labours. For above reasons, I record my finding in Point No.1 partly in Negative.

12. **Point No.2-** the 118 labours were working in FCI through contractors. The contract system changed and mate system was introduced. Thereafter direct payment system was introduced in 1993. Workers continued to work. In Notification, circular or settlement is not produced supporting claim of Ist party for regularization/departmentalization. However when direct payment system is introduced various benefits are also allowed to the labours, the surviving labours in the list received along with reference order are entitled to all benefits under direct payment system. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The demand of the Union for providing employment to Shri Mohan Lahri and 117 other retrenched workers of KAPA Depot is legal and proper.
- (2) IInd party is directed to give benefit of direct payment system to all surviving labours in list submitted alongwith reference order. The benefit be given as per above award only to surviving labours after verification.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3008.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जी.ओ.ए.एफ. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 33/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-42012/170/2001-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Govt. Opium & Alkaloid Factory and their workmen, received by the Central Government on 19/11/2014.

[No. L-42012/170/2001-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/33/02

PRESIDING OFFICER: SHRI R.B. PATLE

Smt. Baso Bai & Gulab, LRs,
Shri Nanhe Khan,
S/o Chaand Khan,
Gillgram Mohalla, Ghas Mandi,
Gwalior

...Workman

Versus

General Manager,
Govt. Opium & Alkaloid Factory,
11/77, Mall Road, Morar,
Gwalior

...Management

AWARD

Passed on this 29th day of October, 2014

1. As per letter dated 30-1-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-42012/170/2001-IR(CM-II). The dispute under reference relates to:

“ Whether the action of the management of Govt. Opium & Alkaloid Factory, Mall Road, Morar, Gwalior in terminating the services of Shri Nanhe Khan S/o Chaand Khan w.e.f. 1-8-97 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. During pendency, workman died. His LRs are brought on record. Statement of claim is submitted by deceased workman at Page 3 to 15. Case of Ist party is that he was initially engaged as water sprinkler. Thereafter he was appointed as watchman. On 20-4-88, workman was engaged as water sprinkler on daily wages. His name was sponsored through Employment Exchange Gwalior. Workman was re-appointed on 19-5-89, 18-5-90, 11-5-92 as water sprinkler. Vide order dated 30-4-93, he was appointed on vacant post of watchman by Asstt. Chief Controller of IInd party. He was continuously working on those posts till 1-8-97. Workman was orally terminated without assigning reasons. He was not given opportunity of hearing. He completed 240 days continuous service during each of the year.

3. Workman submits that he raised conciliation proceeding before ALC. After ALC found dispute is not existing, Writ Petition dated 5-12-99 was filed as per directions issued by Hon'ble High Court and judgment dated 27-4-01, the dispute has been referred. Workman has reiterated that he completed 240 days continuous service. He was terminated without notice. The act of IInd party amount to unfair labor practice. He was in continuous service for 9 years. He was not served with notice neither paid retrenchment compensation. Termination of his service is illegal. On such ground workman prays for his reinstatement with consequential benefits.

4. IInd party filed Written Statement at page 52. It is submitted that Government is not included as party therefore reference is not tenable. That establishment of IInd party is not covered as an Industry. Workman was engaged as per exigencies on contract basis. Provisions of I.D. Act are not applicable to IInd party. Workman was not regularly appointed. There was no question of termination of his service. The violation of Section 25-F of I.D. Act is denied on the ground that provisions of ID Act are not applicable. The reference is not tenable. On such ground, IInd party prays for rejection of claim.

5. Workman submitted rejoinder reiterating his contentions in statement of claim. That he had completed 240 days continuous service. He was terminated without notice, not paying retrenchment compensation.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the management of Govt. Opium & Alkaloid Factory, Mall Road, Morar, Gwalior in terminating the services of Shri Nanhe Khan S/o Chaand Khan w.e.f. 1-8-97 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

7. Workman challenged termination of his service for violation of Section 25-F of I.D. Act. Management denies all material contentions of workman. It is submitted that provisions of I.D. Act are not applicable. IInd party is not an industry under ID Act. Workman filed affidavit of his evidence supporting his contentions in his appointment as water sprinkler on 120-4-88, 9-5-89, 18-5-90, 11-5-92,. He was appointed as watchman on 30-4-93 and was continuously working till his services were orally discontinued on 1-8-97. He was not served notice of termination, retrenchment compensation was not paid to him. Workman could not be cross-examined as he died during pendency of reference. His LRs are brought on record. Gulab Khan S/o deceased workman filed affidavit of his evidence covering all above aspects. He was not cross-examined. His evidence remained unchallenged. From evidence of LRs, documents Exhibit W-1/1 to 19, W-2, W-3 are proved. Those documents are appointment orders issued as water sprinkler, watchman time to time to workman. IInd party failed to participate in reference proceeding. No evidence is adduced to substantiate its contentions that establishment of IInd party is not covered as an industry. There is no evidence adduced by IInd party that the activities carried by it are excluded from Section 2(j) of I.D. Act. to be precise, there is no evidence that establishment of IInd party is not covered as an industry. Evidence of LR of workman remained unchallenged. The documents produced on record shows that deceased workman was continuously working for more than 240 days. His services were orally terminated without notice, he was not paid retrenchment compensation. Thus termination of Ist party workman was in violation of Section 25-F of I.D. Act, therefore, I record my finding in Point No.1 in Negative.

8. **Point No.2-** In view of my finding in Point No.1, termination of service of workman is illegal for violation of

Section 25-F workman died during pendency. There is no question of reinstatement in service. Workman was in service from 1988 to 1997 for about 9 years. His services are illegally terminated in violation of Section 25-F of I.D. Act. Therefore reasonable compensation deserves to be allowed. Considering length of service of deceased workman, in my considered view, compensation Rs. 1,50,000 would be appropriate. Accordingly I record my finding in Point No. 2.

9. In the result, award is passed as under:-

- (1) The action of the management of Govt. Opium and Alkaloid Factory, Mall Road, Morar, Gwalior in terminating the services of Shri Nanhe Khan S/o. Chaand Khan w.e.f. 1-8-97 is not proper and legal.
- (2) Ind party is directed to pay compensation Rs. 1,50,000 to LR of deceased workman within 30 days after publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3009.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 42/1997) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/101/1996-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3009.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 42/1997) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/101/1996-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri PRAMOD KUMAR MISHRA,
Presiding Officer

REFERENCE NO. 42 OF 1997

PARTIES:

The management of Samla Colliery
of M/s. ECL

Vs.

Smt. Dhiraji Thakur

REPRESENTATIVES:

For the management : Sri. P.K. Das, Ld. Adv.

For the union (Workman) : Sri. Rakesh Kumar,
Gen. Secy. KMC

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 21.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/101/96-IR(C-II) dated 11/15.07.1997 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the denial of the management of Samla Colliery under Pandaveshwar Area of M/s. ECL to provide employment to the dependent of Smt. Dhiraji Thakur, PHBA, Samla Colliery, is justified? If not, to what relief is the workman/dependent entitled?”

Having received the Order of Letter No. L-22012/101/96-IR(C-II) dated 11/15.07.1997 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 42 of 1997 was registered on 28.07.1997 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P. K. Das, Ld. Adv. on behalf of the management and Sri Rakesh Kumar representative of the union/workman are present.

Sri Rakesh Kumar submits that the case may be closed and necessary order to that effect may be passed as the workman is not interested to proceed with the case further. The case is also too old – in the year 1997. I find no reason to keep this old record pending, as the workman is not at all interested to proceed with the case further. As such the case is closed and accordingly a ‘No Dispute Award’ may be passed.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3010.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 93/2000) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/574/1999-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3010.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2000) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/574/1999-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT: Sri PRAMOD KUMAR MISHRA,
Presiding Officer

REFERENCE NO. 93 OF 2000**PARTIES:**

The management of Sangramgarh (R) Colliery
under Salanpur Area, ECL

Vs.

Sri B. B. Das

REPRESENTATIVES :

For the management : Sri P. K. Das,
Ld. Advocate

For the union (Workman) : Sri S. K. Pandey,
General Secretary

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 28.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/574/99/IR(CM-II) dated 19.09.2000 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Sangramgarh (R) Colliery under Salanpur Area, ECL, in dismissing Sh. B.B. Das, EP Fitter, from services for his unauthorized absence from duty is justified? If not, to what relief the workman is entitled?”

Having received the Order No. L-22012/574/99-IR(CM-II) dated 19.09.2000 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 93 of 2000 was registered on 27.09.2000. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

The workman in his written statement has pleaded that he was working in Sangramgarh (R) Colliery, Salanpur Area, ECL as EP-Helper. Workman felt unbearable pain in his stomach. He approached to Dr. S.P. Chakroborty residing in his village Bolkunda the nearest doctor. Workman remained under the treatment of Dr. S. P. Chakroborty from 03.12.1991 to 15.04.1992 and also from 16.04.1992 to 02.08.1992. Workman sent letter on 03.12.1991 regarding his sickness which was received by the office of the management but receiving date was indorsed on the letter 12.12.1991. Workman remained sick upto 02.08.1992. When he became fit, he went to resume his duty on 03.08.1992, but he was not allowed to rejoin his duty. Workman was suddenly alarmed to find on 26/28.08.1992 an office order bearing Reference No. 1700/92/C-6/18/1694 was displayed in notice board of the colliery. By that order he was dismissed from service w.e.f. 18.08.1992 along with others. The workman has not received any charge sheet, notice of the enquiry and not even letter of dismissal till date. The workman had to remain sick for reasons beyond his control and in spite of due information given to the management the order of dismissal was issued in gross violation of natural justice. The enquiry is baseless, false biased and perverse. All proceedings were held behind

his back. Tribunal should give a preliminary finding to the effect that there has no domestic enquiry at all or that the enquiry held was improper and unfair. Dismissal is quite disproportionate to alleged guilt. This absence was due to his sickness which was beyond his control. Workman has prayed that the Dismissal order be set-a-side and order be passed for re-instatement with full back benefits and other benefits for which he may be found entitled.

On the other hand management has pleaded in his written statement that dispute arises after a laps of about 7 years and as such it should be rejected for the reason of delay. The allegations made by the union in their written statement are all false and fabricated. Concerned workman was absent from duty w.e.f 03.12.1991 without giving information or without obtaining any permission, though his residence is within a Kilometer of the colliery. Due to unauthorized absence of workman concerned charge sheet vide No. 1710/02/295 dated 03/08.04.1992 was issued. The concerned workman was duly informed about enquiry but he failed to appear before the Enquiry Officer nor he submitted any reply to the charge sheet. Enquiry Officer, having no option, conducted enquiry ex-parte. Enquiry officer after concluding the enquiry held the workman guilty. Management considering the enquiry report dismissed the concerned workman from service w.e.f 18.08.1992. The management came to know subsequently that concerned workman was not sick at all and he deliberately avoided to attend the enquiry. The conduct of workman is not fair. He is guilty of suppression of facts.

Worker has submitted 4 photo copies of documents. Besides he has filed annexure ABC and order of hon'ble Kolkata High Court. On the other hand management has filed 10 photo copies of he documents including enquiry report.

Worker has examined himself on oath. No evidence has been filed by the management.

I have heard the argument of Sri S. K. Pandey on behalf of the union/workman and Sri P. K. Das Ld. Advocate on behalf of the management. Besides management has filed written argument also.

It is not disputed that dismissed workman Sri B. B. Das is permanent employee of Sangramgarh (R) Colliery under Salanpur Area of ECL. Mr. P. K. Das has admitted this fact in argument.

At very outset, it is relevant to mention that the workman in his written statement has challenged the enquiry proceedings as being unfair, perverse and in violation of natural justice. He has pleaded in his written statement that he was not provided opportunity to defend himself. Therefore the then Presiding Officer on hearing both the sides has passed order on 08.1.1993 that enquiry proceeding was conducted ex parte without giving

opportunity to the workman. The enquiry proceeding suffers from violation of principle of natural justice. Management by filing application prayed that management be given opportunity to adduce evidence in this respect. The tribunal afforded opportunity accordingly and fixed date for evidence of management. Tribunal afforded more then 10 days for adducing evidence in this respect. But in spite of that management did not adduce any evidence, regarding fairness of enquiry.

Mr. P. K. Das, Ld. Adv. of the management has argued that enquiry report is bonafied, workman was found guilty. Therefore workman was punished by order of dismissal which is correct one. In reply to the said argument Mr. S. K. Pandey argued that delinquent workman was sick. Due to his sickness he was undergoing treatment therefore he was absent for three months. But delinquent workman regularly informed in writing to the management which was received in the office of the management. But management, without affording any opportunity to delinquent workman to defend himself has proceeded in a very hurry. The enquiry proceeding and order of dismissal, are illegal and unjustified.

Written argument has been filed on behalf of the management. In written argument of the management has stated that a criminal case was registered at Asansol South Police Station vide case No. 164 dated 09.08.1992 under section 420 and 406 Indian Penal Court. Workman was arrested and he was in judicial custody from 12.08.1992. As such plea of illness from 11.08.1992 was false. Along with the written argument the management has filed the photocopy of the application of sub-inspector of police regarding case No. 164 dated 09.08.1992 under section 420 and 406 Indian Penal Court.

In Industrial Law the acts of fraud had been treated as act of misconduct, justifying dismissal apart from being exposed to the panel liability under criminal law. The standing orders of Industrial employers, also, makes such acts and conducts as 'misconducts' by including them in their standing orders. There is however a distinction between such acts committed by an employee towards his employer and towards other. In the former case the misconduct will justify the disciplinary action of dismissal or discharge of a workman by his employer. But in the latter case, a further consideration arises, whether the act is committed towards an utter stranger or towards other persons employed by the employer. The acts of fraud which have no relation with employment of he employee with his employer or which relate to outsiders will not constitute misconduct for the purpose of industrial discipline, as it is not covered under standing order of Eastern Coalfields Limited where the delinquent workman is employee. As per annexure annexed to the written argument it is apparent that if any fraudulent act has been committed by employee it has no nexus with his

employment. Moreover the delinquent workman has not been charge sheeted nor any enquiry proceeding been held regarding his alleged act of fraud.

So far as question of delay is concerned it transpires from record that workman has filed writ petition before hon'ble Kolkata High Court, being number 9378 (w) of 1994. The hon'ble Kolkata High Court has pleased to dispose off the application with direction to institute, the dispute in proper forum under Industrial Dispute Act. Consequently workman agitated the matter to RLC/ALC, failing which he raised the dispute in Industrial Tribunal through Ministry of Labour, New Delhi. Therefore I am not in agreement with the argument of Mr. P.K. Das that due to delay their reference should be rejected. The workman was issued charge sheet for his absence of more than 3 months. As per written statement of the management the delinquent workman was issued charge sheet No. 1710/92/295 dated 03/08.04.1992. Before proceeding with the domestic enquiry against the delinquent workman he must be informed clearly, precisely, and accurately of the charges labelled against him. It is the duty of the employer to indicate to the delinquent workman not only the precise nature of charges, but also the documents, if any, upon which the charges are based. This is all more necessary when the charges are of a general nature. The charge sheet, which the workman is called upon to show cause against should also state all relevant particulars. If the charges are imprecise and indefinite, the person charged would not be able to defend himself and the resulting enquiry would not be fair. The Enquiry Officer should specifically disclose the documentary as well as oral evidence in the charge sheet which will be used against the delinquent workman. If any documentary evidence or oral evidence have been relied by the Enquiry Officer but has not been disclosed in the charge sheet, the enquiry proceeding will be unfair and unjust and in violation of principles of natural justice. As it is apparent from the charge sheet, that the Enquiry Officer was aware about sickness of delinquent employee. Charge against the delinquent employee is that he did not report for treatment in colliery dispensary and he remained absent from the colliery for more than 3 months without any authorized leave. The Enquiry Officer has not disclosed in the charge sheet the evidence, documentary as well as oral, which will be used against the delinquent employee. But Enquiry Officer has recorded the statement of the Management Witness 1 and Management Witness 2 but name of these management witnesses has not been disclosed. The Enquiry Officer sent registered notice to the delinquent employee which returned unserved. But in spite of that, Enquiry Officer proceeded departmental enquiry ex-parte without ensuring service of notice.

When different categories of penalties can be imposed in respect of the alleged fault, one of which is

dismissal from service, the disciplinary authority per force is required to consult himself for selecting the most appropriate penalty from out of range of penalties available, that can be imposed. The disciplinary authority should have regard to the nature, context and gravity of the default. If the lesser penalty can be imposed without seriously jeopardizing the interest of the management, the disciplinary authority should not impose the maximum penalty of the dismissal from service. The punishment must be commensurate with the nature and gravity of the misconduct proved against him. Failure to take these material into account before awarding, the punishment may be fatal to the order of punishment.

It is settled law of hon'ble Apex Court that in case of reinstatement of delinquent workman back wages can't be granted automatically. Parties to the reference must plead in their written statement about their gainful employment of delinquent workman during his period of dismissal. Neither the workman in his written statement nor management in his written statement has pleaded about the fact of gainful employment of delinquent workman during his period of dismissal. In view of this fact it is just and proper that workman should be awarded 50% of back wages during his period of dismissal.

In view of discussion above, the punishment of dismissal for absence of more than 3 months under compelling circumstances and without any malafied intention is not just and proper. Rather it is too harsh a punishment which is totally disproportionate to the alleged unproved misconduct. Besides this, as per the direction of hon'ble Apex Court no 2nd Show Cause notice before imposing the punishment of dismissal has been issued to the workman concerned, which is violation of directives of the hon'ble Apex Court and the principles of natural justice as well.

In view of this matter, I think it just and proper to modify and substitute the same by exercising the power under section 11-A of Industrial Dispute Act, 1947. Impugned order of dismissal is set-a-side and management is directed to re-instate the delinquent workman with the continuity of service. I think it appropriate that the delinquent workman be imposed a punishment of stoppage of two increments without cumulative effect. It is further directed that the workman concerned will be entitled to get 50% of the back wages.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3011.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 34/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/287/1998-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3011.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 34/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/S. Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/287/1998-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT: Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 34 OF 1999

PARTIES:

The management of Chora 7 Pit Colliery
of Kenda Area of M/s. ECL

Vs.

Sri Rooplal Bhuia

REPRESENTATIVES:

For the management : Sri P. K. Das,
Ld. Advocate

For the union (Workman) : Sri S. K. Pandey,
Gen. Secy. CMC

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 30.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/287/98-IR(CM-II) dated 25.05.1999 has been

pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Chora 7 pit Colliery of Kenda Area of M/s. ECL in dismissing Sri. Rooplal Bhuia, Surface Trammer is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/287/98-IR(CM-II) dated 25.05.1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 34 of 1999 was registered on 07.06.1999 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P. K. Das, Ld. Adv. is present on behalf of the management and Sri S. K. Pandey, Gen. Secy. of the union is also present on behalf of the workman.

Sri S. K. Pandey submits that the case may be closed as the workman is not available. On perusal of the case record I find that the workman is not appearing before the court since long. The case is too old – in the year 1999. Hence the case is closed and a ‘No Dispute Award’ may be passed accordingly.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3012.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 02/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/70/2001-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3012.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 02/2002)

of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/S. Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/70/2001-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 02 OF 2002

PARTIES:

The management of Lower Kenda Colliery
of M/s. ECL

Vs.

Sri Ahamd Hussain & 8 others

REPRESENTATIVES:

For the management : Sri P. K. Das,
Ld. Advocate

For the union (Workman) : Sri Sushil Banerjee,
Org. Secy.

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 29.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/70/2001-IR(CM-II) dated 20.12.2001 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Lower Kenda Colliery of M/s. Eastern Coalfields Limited, in not giving pay protection to Sri Ahamed Hussain & 8 others (list enclosed) on conversion from Piece Rate to Time Rate is legal and justified? If not, to what relief they are entitled to?”

Having received the Order of Letter No. L-22012/70/2001-IR(CM-II) dated 20.12.2001 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 02 of 2002 was registered on 15.01.2002 and accordingly an order to that effect was passed to issue notices through the registered post to the parties

concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record I find that the workman/union did not turn up after 10.04.2013. It seems that the workman at present not at all interested to proceed with the case further. As such no dispute exists between the parties. Hence the case is closed and a ‘No Dispute Award’ may be passed accordingly.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 49/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/123/2002-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of ECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/123/2002-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 49 OF 2002

PARTIES:

The management of Madhujore Colliery
of M/s. ECL

Vs.

नई दिल्ली, 19 नवम्बर, 2014

Sri Bobi Jana

REPRESENTATIVES:

For the Management : Sri P. K. Das,
Ld. Advocate

For the union (Workman) : Sri Rakesh Kumar,
Gen. Secy., KMC

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 24.10.2014

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No. L-22012/123/2002-IR(CM-II) dated 28.11.2002 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Madhujore Colliery under Kajora Area of M/s. ECL in not providing employment to Sh. Bobi Jana, dependent son of Late Netai Jana is justified? If not, to what relief is the said dependent entitled?”

Having received the Order of Letter No. L-22012/123/2002-IR(CM-II) dated 28.11.2002 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 49 of 2002 was registered on 30.12.02 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

On perusal of the case record I find that my predecessor (Late J. K. Sen, the then P.O.) had reserved an award in this case because the workman neither appeared nor took any step since long. It seems that the workman is now not at all interested to proceed with the case further. As such the case is closed and accordingly a ‘No Dispute Award’ may be passed.

ORDER

Let an “Award” be and the same is passed as “No Dispute” existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for needful information. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

का.आ. 3014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 2/2006) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/491/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3014.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/06) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bishrampur Area of SECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/491/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/2/06

PRESIDING OFFICER: SHRI R. B. PATLE

Shri M. L. Jain,
Ex-Committee Member,
Samyukta Koyla Mazdoor Sangh (AITUC),
Near Panchayati Mandir,
Shahdol ...Workman

Versus

Chief General Manager,
Bishrampur Area of SECL,
PO Bishrampur,
Distt. Surguja (CG) ...Management

AWARDPassed on this 29th day of October, 2014

1. As per letter dated 23-12-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/491/2004-IR(CM-II). The dispute under reference relates to:

“Whether the demand of Samyukta Koyla Mazdoor Sangh for treating Shri Devraj Prajapati in continuous service since 16-8-94 and for payment of wages for the period 8-5-96 to 18-5-00 is legal and justified? If yes, to what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by Union at page 3/1 to 3/6. The case of Ist party union is workman Devraj was appointed as Apprentice Diesel Mechanic w.e.f. 20-7-94. He completed his apprentice, thereafter he was appointed as Categoroy I Mazdoor vide order dated 2-2-96 after considering his satisfactory performance. That management withdrawn appointment order and again appointed workman as apprentice for one year. After completion of training period, workman was kept out of job on 18-5-00. Workman was appointed as Category-I Mazdoor without considering his earlier service. It is likely to affect his future service career. Union requested management that workman be treated in employment since 16-8-94 till 18-5-00 after following failure of conciliation, the reference is made by Govt. It is submitted that the workman was appointed as Category I Mazdoor in May 95 on conditions mentioned in the order. Management withdrawn appointment order and again appointed workman as apprentice for one year. After completion of training, workman was appointed as Category I mazdoor on 18-5-00. That workman was discriminated with similarly situated colleagues.

3. It is further submitted that workman Devraj had appeared for interview on 29-9-92 in response to letter dated 18-9-92. Workman was appointed as Apprentice Diesel Mechanic vide order dated 20-7-94. Workman was discriminated on such ground. It is submitted that withdrawal of appointment of workman vide order dated 8-5-96 is in violation of Section 25 N of I.D.Act. Other similarly situated colleagues were appointed. Their appointment orders were cancelled. It is further alleged that since 16-8-94, work of Cat-III Mazdoor like Tyndall Cat-III, Dresser Cat-III, Driller Cat-IV, Lamp Fitter Cat IV & V, Fitter Category IV, V & VI maintenance etc. was restricted from him. He was not paid equal wages for equal work. Union prays that workman Devraj be treated in continuous service from 16-8-96. Wages for the period 8-5-96 to 18-5-00 be awarded to him.

4. IInd party filed Written statement at page 9/1 to 9/11. Preliminary objection is raised that dispute relates to year 94 & 96. Dispute is raised in 2005 is not tenable as per ratio held in AIR-2000 SC-839. That workman claimed continuous service from 1996 to 2000 is not industrial dispute. Said dispute is not raised by Union Executive Committee member Shri M.L. Jain has raised dispute without locus-standi. It is submitted that workman is not covered under Section 2(s) of I.D.Act. in view of provisions under Section 18 of Apprentice Act, 1961. IInd

party also reproduced ratio held in case of 2005-I-LLJ-107 supporting its contentions.

5. IInd party submits that it is company registered under Company's Act. It is subsidiary of Coal India Ltd. undertaking of Govt. of India. That Devraj Prajapati was appointed as Apprentice. As per letter dated 20-7-94, he was appointed as General Mazdoor on 2-2-96 by General Manager, Hasdeo Area. He joined as Apprentice on 16-8-94 at Bijuri Sub Area. Inadvertently order dated 2-2-96 was issued appointing him as General Mazdoor Category I. said order was cancelled. As per order dated 8-5-96 by Chief General Manager, Hasdeo Area. Workman was directed to complete balance training period of one year. It is not obligation for management to regularize apprentice on completion of training. Workman cannot claim right to be regularized as Category I Mazdoor on completion of Apprenticeship. It is submitted that after completion of apprentice training, workman was appointed as General Mazdoor Category I on 18-5-00. That 8 persons were promoted to the post of mechanical fitter Category II vide order dated 13-5-02. Devraj was not promoted as mechanical helper category II as he was holding ITI Diesel Mechanic. Workman required 3 years experience as General Mazdoor for promotion to Mechanical Helper Category. IInd party has reiterated that workman was appointed as apprentice, he has no right to appointment as General Mazdoor. Order dated 2-2-96 was wrongly issued. Workman had not completed 2 years training as per apprentice. Workman was given opportunity to complete training of 2 years. Thereafter workman was appointed as General Mazdoor vide order dated 18-5-00. Action of the management is proper. Award be passed in favour of management.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) “Whether Shri Devraj is covered as workman under Section 2(s) of I.D.Act ? | In Affirmative |
| (ii) Whether the demand of Samyukta Koyla Mazdoor Sangh for treating Shri Devraj Prajapati in continuous service since 16-8-94 and for payment of wages for the period 8-5-96 to 18-5-00 is legal and justified? | In Negative |
| (iii) If so, to what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

7. Parties are not in dispute that Shri Devraj Prajapati was initially appointed as Apprentice Diesel Mechanic vide order dated 2-2-96, he was appointed as General

Mazdoor. Said order was cancelled. IInd party has contented that as Devraj was appointed as apprentice, he is not covered as workman in view of provisions under Section 18 of Apprentice Act, 1961. In Para 6 of the Written Statement, verbatim of Apprentice Act, 1961 is reproduced that

“Apprentice are trainees and not workers. Save as otherwise provided in this Act

- (a) Every apprentice undergoing apprenticeship training in a designated trade in an establishment shall be a trainee and not a worker; and
- (b) The provisions of nay law with respect to labour shall not apply to or in relation to such apprentice.”

On the point, learned counsel for IInd party Shri A.K. Shashi relies on ratio held in

“Case of U.P. State Electricity Board versus Shiv Mohan Singh and another reported in 2005-I-LLJ-117 their Lordship dealing with Section 4(4) of Apprentice Act, 1961 held non-registration of apprenticeship contract will not change character of apprentice or confer status of workman. Labour Court/ Industrial Tribunal will not therefore have jurisdiction to entertain disputes arising from termination of service of apprentice.”

8. In this regard, learned counsel for workman Rajeshwari Nair submits that workman was appointed as General Mazdoor Category, he was working more than 3 months and as such attained status of permanent employee defined under Section 3(b) of Standard Model Standing Orders for Industrial Establishment in Coal Mines. His appointment order was cancelled on the ground that he had not completed 2 years apprenticeship training. The parties are not in dispute in factual position about cancellation of appointment order. The copy of appointment order dated 2-2-96 is produced appointing workman as General Mazdoor Category I, copy of order dated 2-2-96 is produced on record shows that it was revealed from record that workman had completed one year of apprentice period whereas he was required to complete 2 years apprenticeship. In order to satisfy eligibility norms, the appointment of Category I order dated 2-2-96 was withdrawn. The dispute relates to legality of withdrawal of order dated 2-1-96. Workman was appointed as Category I Mazdoor. The facts in above cited case are not comparable therefore the ratio cannot be applied to case at hand. When workman was appointed as General Mazdoor Category, he is covered as workman under Section 2(s) of I.D. Act. The provisions of Section 18 Apprentice Act cannot be applied in view of appointment of workman as General Category I Mazdoor. For above reasons, I record my finding in Point No.1 in Affirmative.

9. **Point No.2-** the terms of reference relate to whether demand of SKMS Union in treating Shri Devraj Prajapati in continuous service since 16-8-94 and for payment of wages for the period 8-5-96 to 18-5-00 is legal. There is no dispute between parties that Shri Devraj was initially appointed as apprentice. Copy of order dated 20-7-94 is produced. The condition in said order is clear that you will not have any claim/right for appointment in the company after completion of your training period. Shri Devraj was appointed as General Mazdoor Category I as per order dated 2-2-96 is also not in dispute between parties. Said order was withdrawn on 8-5-96. Copy of order is produced as workman had not completed 2 years apprentice period, order dated 2-2-96 was withdrawn, it cannot be said termination or retrenchment rather workman was given opportunity to complete 2 years apprenticeship training.

10. Workman has filed affidavit of his evidence covering his contentions in statement of claim. In his cross-examination, he says order Exhibit W-4 original was received by him. He is member of SKMS Union. That Pradeep Kumar, Tapas Kumar and Narendra Gupta were taken as apprentice in Diesel trade. He was also apprentice in Diesel Trade. The period of apprentice was not informed, written order was given to him for apprentice. He undertaken to produce said order on record, the documents are produced. Workman was unable to say whether order of apprenticeship was clear that employment was not guaranteed. He further says that he was apprentice from 94 to 96. He was unable to tell period of his apprenticeship. He was not able to tell apprentice period of Shri Narendra, Pradeep and Tapas. He admits that he was working till 18-12-96. His further cross-examination shows he was appointed as General Mazdoor on 18-5-00. No DCP was held about benefit of Mechanical Helper Category II. He was unable to tell whether helper Category II and Diesel Category II are different cadre. He claims ignorance whether 3 years experience is necessary for next promotion. He was promoted in 2004 at Helper Category II, in the year 2008 he was promoted as Fitter Cat-IV., in 2012, he was promoted as Mechanical Fitter Cat-V.

11. Management filed affidavit of Shri Tilak Kumar supporting its contentions. Witness of management in his cross-examination says that Ist party workman was given interview letter in 1994 through employment exchange. He was appointed as trainee for 2 years. He claims ignorance whether two other persons were appointed with him. That Ist party was appointed as trainee at Hasdeo Area. He claims ignorance about appointment of Ist party workman after cancellation of appointment order dated 2-2-96, he was appointed in 2000. He claims ignorance whether Tapas and Narendra were given appointment in 1996. He denies that wrongly appointment order was given to workman for 2 years in

1994. Witness denies that intentionally workman was not given appointment from 96 to 2000. The conditions in order dated 20-7-94 appointing workman as apprentice is clear that he will not have any claimed right for appointment in company after completion of training period. The claim of workman for wages for said period is inconsistent with above condition.

12. Learned counsel for workman Rajeshwari Nair pointed out my attention to Model Standing Orders for Industrial Establishment with Coal Mines Rule 3(1)-

A permanent workman is one who is appointed for an unlimited period or who has satisfactorily put in three months continuous service in permanent post as a probationer.

Said rule has no application to present matter as workman was not appointed as probationer but he was appointed as apprentice. Order dated 2-2-96 was cancelled as per order dated 8-5-96 as workman had not completed 2 years apprenticeship training. During course of argument, Rajeshwari Nair emphasized that order of appointment as apprentice, period has not been clearly specified and therefore cancellation of order of appointment order dated 2-2-96 is illegal. Learned counsel for IInd party Shri A.K.Shashi pointed out my attention to schedule-1 of Apprentice Act, 1961. The training period as apprentice is 3 years and exemption of one year thus 2 years. After order dated 5-8-96, workman has completed apprentice period without any grievance. The dispute is raised in the year 2005. The conduct of workman clearly shows that he had acquired to complete 2 years training period in pursuance of order dated 5-8-96 as per conditions in order of appointment of apprentice, he has no right of regularization. Therefore the claim of Ist party workman to regularize him from date of appointment as apprentice and claim for wages from 8-5-96 to 18-5-00 is inconsistent with the conditions in the document of appointment of apprentice. For above reasons, I record my finding in Point No. 2 in Negative.

13. In the result, award is passed as under:-

- (1) The demand of Samyukta Koyla Mazdoor Sangh for treating Shri Devraj Prajapati in continuous service since 16-8-94 and for payment of wages for the period 8-5-96 to 18-5-00 is not justified.
- (2) Workman is not entitled to any relief as claimed by him.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.सी. के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, जबलपुर के पंचात (संदर्भ संख्या 48/96) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/336/1995-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 48/96) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of West Chirimiri Colliery and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/336/1995-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/48/96

PRESIDING OFFICER: SHRI R.B. PATLE

Regional General Secretary,
MP Koyla Khan Drivers and
Operators Sangh, Chirimiri
Area, Post Handibadi,
Distt. Surguja (MP)

...Workman/Union

Versus

Sub Area Manager,
West Chirimiri Colliery,
Post West Chirimiri Colliery,
Distt. Surguja (MP)

...Management

AWARD

Passed on this 14th day of October, 2014

1. As per letter dated 14-2-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012(336)/95-IR(CM-II). The dispute under reference relates to:

“ Whether the action of the Dy.Chief Mining Engineer/ SAM, West Chirimiri Colliery of SECL in dismissing Shri Mangloo S/o Chhotelal Motor Driver w.e.f. 31-5-86 vis a vis acquittal of Shri Mangloo by Judicial Court, Manendragarh is legal and justified? To what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party claiming to be LR of deceased Mangloo submitted statement of claim at Page 9/1 to 9/4. Case of Ist party LR of deceased workman is that the deceased workman has submitted statement of claim on 13-7-99. It was not placed on file by the office. Workman died on 17-6-2000. They filed separate statement of claim as LR.

3. It is further submitted that late Mangloo was working as Motor Driver in Chirimiri Colliery with satisfaction of his superior. Chargesheet was issued to him on 27-1-85 for fabricated allegations. The deceased workman submitted reply denying the charges alleged. Thereafter DE was initiated by management. Enquiry was conducted and Enquiry Officer found deceased workman guilty of charges. It is submitted that deceased workman was not given sufficient opportunity for his defence. Enquiry Officer acted as prosecutor instead of judge. The documents required by deceased workman were not supplied to him. Principles of natural justice were violated by Enquiry Officer. The punishment imposed on workman is harsh, excessive and workman was prosecuted in criminal case No. 277/85 before JMFC, Surguja. Workman was acquitted of the charges on 30-12-91. Evenafter acquittal of deceased workman, he was not reinstated by management. On such ground, LR prays to set-aside order of dismissal of workman and claimed full back wages as consequential relief.

4. Management of IInd party submitted Written Statement at Page 12/1 to 12/7. It is submitted by IInd party that workman was dismissed by order dated 31-5-86. The dispute is raised after 11 years is not tenable. It is denied that Sonia bai is widow of deceased workman. Said record is not available with management. That Mangloo expired on 17-6-2000. Statement of claim is submitted by Sonia Bai claiming to be his widow.

5. IInd party submits that Late Mangloo was working in Ist shift from 7 AM to 3 PM on 25-1-85 on Tipper No. CIL 9007 transporting coal. His duty ended at 3 PM. Workman was required to hand over in colliery garage. However he did not handover or pass Tipper as required. At 4.30 PM, while workman was driving Tipper under intoxication caused accident. Sever injuries were caused to Smt. Shajahan, W/o Shri Iqbal Ahmed working as Dresser and daughter Monina Khatun. The accident occurred while both of them were passing by road side. Both died in hospital of severe injuries suffered by them in accident. Chargesheet was issued to workman on 27-1-85. Reply given by workman was found unsatisfactory. Enquiry was conducted following rules. it is emphasized that enquiry was conducted following rules. that acquittal of workman in criminal case doesnot give right for reinstatement. Dismissal of workman is proper and legal. IInd party prayed for rejection of claim. IInd party also emphasized that workman was given full opportunity

for his defence. The acquittal from criminal case doesnot affect departmental proceedings by management.

6. Ist party submitted rejoinder at Page 13/1 to 13/5 reiterating their contentions in statement of claim. That their claim cannot be dismissed on technical ground. Names of both LR are given in statement of claim. That deceased Mangloo was not given opportunity for his defence.

7. Enquiry conducted against workman was found illegal as per order dated 14-3-2014. Management was given opportunity to prove misconduct adducing evidence. The application was submitted by Ist party that workman is dead. Enquiry cannot be conducted against him. As per order dated 23-6-2014, application of Ist party was accepted and case was fixed for final argument. As such no evidence could be adduced by IInd party to prove misconduct alleged against workman.

8. Considering above facts and pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the Dy. Chief Mining Engineer/ SAM, West Chirimiri Colliery of SECL in dismissing Shri Mangloo S/o Chhotelal Motor Driver w.e.f. 31-5-86 vis a vis acquittal of Shri Mangloo by Judicial Court, Manendragarh is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

9. Enquiry conducted against workman is found illegal as per order dated 14-3-14. As per order passed on application submitted by Ist party dated 23-6-14, application of Ist party was accepted and disciplinary proceedings against deceased workman was closed. The documents produced by management Exhibit M-1 is letter given by General Secretary of Union objecting dismissal of workman from 31-5-86 and denial of reinstatement after acquittal by Criminal Court. Exhibit M-2 is copy of chargesheet issued to workman refers to driving under intoxication, knocking down Smt. Shajahan and her daughter Monina Khatun due to rash and negligent driving. Exhibit M-3 is reply given to chargesheet in Para-3 of the reply by workman, he has explained that around 3 PM on the day of incident, 2-3 ladies and children were passing by road. He had blown horn. Both ladies and children have taken side of the road. He reduced speed of dumper. However it cannot be denied that rear portion of dumper may have caused injuries. Exhibit M-4 is order

of appointment of Enquiry Officer. M-5 is notice of enquiry. M-6 is copy of proceeding of enquiry. As enquiry is vitiated, it cannot be considered. Exhibit M-7 is report submitted by Enquiry Officer recommending dismissal of workman for the death of Monina and her daughter. As enquiry is vitiated, management is required to prove misconduct adducing evidence in court. However as workman died during intervening period, enquiry was not continued and case is fixed for argument. Exhibit W-1 is copy of judgment in Criminal case. This judgment was delivered on 31-12-91. Workman was dismissed from service long back on 31-5-86. In para-13 of the judgment, criminal court observed that material witness Noruddin was not examined before Court. The allegation of prosecution were not proved. As discussed above, workman in reply given to chargesheet in Exhibit M-3 has admitted that ladies may have suffered injuries from tipper. However as enquiry is vitiated, it cannot be considered as admission. No evidence could be adduced by IInd party to prove charges against workman therefore charges alleged against workman could not be proved after enquiry is vitiated, order of dismissal of workman is illegal. For above reasons, I record my finding in Point No.1 in Negative.

10. Point No.2- in view of my finding in Point No.1 that dismissal of deceased workman is illegal. Reply given by deceased workman Exhibit W-3 admitted the ladies may have suffered injuries from tipper. Criminal court in its judgment W-1 has observed material witness was not examined. Those facts cannot be overlooked while granting relief. Workman had died long back. The dispute is raised after more than 11 years by LR's of deceased. Workman had claimed reinstatement after his acquittal from Criminal Court. Acquittal from Court cannot be automatic right for reinstatement. As enquiry is vitiated and charges not proved by management for technical reasons, there is no question of allowing reinstatement of workman. Only reasonable compensation could be awarded. As the order of dismissal is rendered illegal after enquiry is found vitiated in my considered view, two persons have died in accident but total compensation Rs. 75,000/- would be appropriate relief. Accordingly I record my finding in Point No.2.

11. In the result, award is passed as under:-

- (1) The action of the Dy.Chief Mining Engineer/ SAM, West Chirimiri Colliery of SECL in dismissing Shri Mangloo S/o Chhotelal Motor Driver w.e.f. 31-5-86 vis a vis acquittal of Shri Mangloo by Judicial Court, Manendragarh is illegal.
- (2) IInd party is directed to pay compensation Rs. 75,000/- to the LR's of the deceased workman Mangloo.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In

case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3016.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 138/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/157/1996-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3016.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 138/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/157/1996-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/138/97

PRESIDING OFFICER: SHRI R.B.PATLE

Secretary,
Koyla Mazdoor Sabha (UTUC),
J&K Area, Lusai Camp,
Post Kotma,
Distt. Shahdol (MP)

...Workman/Union

Versus

General Manager,
Jamuna & Kotma Area,
SECL, Post Jamuna Colliery,
Distt. Shahdol (MP)

...Management

AWARD

Passed on this 30th day of October, 2014

1. As per letter dated 20-5-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under

Section -10 of I.D. Act, 1947 as per Notification No.L-22012/157/96/IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Jamuna and Kotma Area of SECL in dismissing Shri bharta, S/o Chaitu, Loader from company services w.e.f. 6-2-90 is legal and justified? If not, to what relief is the workman entitled and from which date?”

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 7/1 to 7/7. Case of Ist party workman is that he was initially appointed on post of labour at Jamuna 1,2 mines of SECL in 1974. Workman during service period fell sick on various occasion. He was receiving treatment from colliery hospital. When he was confined to bed, he could not attend duties. Most of the employees in the colliery are facing serious and hazardous disease like Bronchitis Asthama, Pneumoconosis diseases. That such diseases are caused due to dust allergy. Workman was also suffering from dust allergy, he was receiving treatment from colliery hospital. Management served chargesheet on 15-9-89 for habitual absence in the year 1986, 87, 88. There was no allegation against him for absence for particular period. The chargesheet was issued for absence more than 10 days alleging misconduct under standing orders. Enquiry Officer Shri Dixit, management Representative Shri A.K.Puni were appointed by the management.

3. Workman submits that he had not committed any misconduct. He being illiterate was knowing procedure of departmental enquiry. The enquiry was fixed on 24-1-90 without giving him opportunity or without recording evidence, Enquiry Officer started putting questions whether he admits charge or not. Workman submits that he had simply stated he admits his mistake and in future he will not repeat it. On its basis Enquiry Officer submitted his report. On report of Enquiry Officer, workman was dismissed. It is submitted that workman was not given opportunity of hearing. Workman reiterated that findings of Enquiry Officer are perverse. Enquiry was not properly conducted. That he had not admitted the charge. On such ground, workman prays for his reinstatement with consequential benefits.

4. Management of IInd party filed Written Statement at Page 8/1 to 8/11. Preliminary objection is raised that dispute is raised after lapse of 17 years is not tenable. Management also referred ratio held in different cases. That SECL is a company registered under Indian Company's Act. It is subsidiary of Coal India Ltd. services are governed by NCWA. That chargesheet was issued to workman for unauthorized absence. The details of absence from duties is shown in Para-4. It is submitted that enquiry

was properly conducted. Workman had admitted his guilt. Enquiry Officer submitted his report. Considering gravity of charges proved, management issued punishment order. It is further submitted that Coal Industry Employees are paid high salaries and various facilities are allowed to the employees for securing 100 % attendance. Management has denied all adverse contentions raised by workman that he had not admitted charge rather he admitted his mistake. It is denied that workman was not given proper opportunity of hearing or defence. Management supports the order of dismissal of workman.

5. Vide order dated 12-11-2013, enquiry conducted against workman was found proper and legal. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the charges against workman are proved from evidence in Enquiry Proceedings? | In Affirmative |
| (ii) Whether punishment of dismissal imposed against workman is proper and legal? | In Affirmative |
| (iii) If so, to what relief the workman is entitled to?” | As per final order. |

REASONS

6. As stated above, enquiry conducted against workman is found legal. The question remains for adjudication whether charges against workman are proved from evidence in Enquiry Proceedings and punishment of dismissal imposed by IInd party is proper. In chargesheet issued to workman under Clause 17(1)(d) relating to habitual late attendance, habitual absence without leave under Clause 17(1)(d), charge No.2 is continuous absence without permission without satisfactory cause more than 10 days under clause 10(1)(N). the record of Enquiry Proceedings page 10 finds clear reference that charge was readover to workman. Workman admitted charge against him. That he had also submitted in writing before Mine Suptd. on 30-9-89 admitting his mistake. He had assured not to repeat such incident in future. Considering admission of charge by Enquiry Officer, enquiry was closed. Management has produced extracts of Form C at page 11 to 13 of Enquiry Proceedings. Workman himself admitted charge and copy of Form C register are produced on record. charges against workman are proved.

7. With respect to quantum of punishment, workman was absent for long period shown in the chargesheet was

on duty for 144 days in 1986, 73 days in 1987, 67 days in 1988, 5 days in 1989. Workman was habitual absentee. Workman has not adduced evidence on other issues. He had not participated in Enquiry Proceedings therefore I do not find reason to interfere with the order of punishment. As per pleadings workman was in service from 1974 till dismissal i.e. 1990. While passing order of dismissal, management did not consider his length of service. Workman is denied retiral benefits. At the time of argument, learned counsel for IInd party was fair in submission that the retiral benefits may be allowed to the workman therefore keeping above aspects in view, the order of dismissal needs to be modified to compulsory retirement. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under:-

- (1) The action of the management of Jamuna and Kotma Area of SECL in dismissing Shri bharta, S/o Chaitu, Loader from company services w.e.f. 6-2-90 is not legal and proper. The dismissal order is set aside, punishment of dismissal is modified to compulsory retirement.
- (2) IInd party is directed to allow retiral benefits to the workman considering the period of his initial appointment till order of his dismissal i.e. 6-2-90.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3017.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 86/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/328/2003-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 86/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Jamuna & Kotma Area of SECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/328/2003-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/86/04

The Secretary,
M.P.Koyla shramik Sangh,
J&K Area, Santoshi Colony,
Kotma Colliery,
Distt. Shahdol (MP) ...Workman/Union

Versus

General Manager,
Jamuna & Kotma area of SECL,
PO Jamuna,
Distt. Shahdol ...Management

AWARD

Passed on this 7th day of November, 2014

1. As per letter dated 19-7-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/328/2003-IR(CM-II). The dispute under reference relates to:

“Whether the action of the General Manager, Jamuna and Kotma Area of SECL in not making payment of dues to Shri Prithivalpal Singh for the period he was detained by police and transferring him to Amadand Sub Area is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Case of Ist party workman is that he was working as Sr. Clerk in pension department of Jamuna underground Sub divisional Office. On 11-11-00, he was arrested by police. Immediately after his arrest he was sent to jail. Criminal case was registered against workman for offence under Section 302, 120B & 34 of IPC before Session Court Shahdol on 28-7-01. Workman requested management to accept his joining, however not permitted to join service. He submitted representation on 7-8-01, 8-8-01 to General Manager, Jamuna & Kotma Area of SECL. Issue was taken up in meeting of Joint Consultant Committee on 10-9-01. Committed requested management to accept joining. Dy.Chief Personal Manager written letter dated 5-9-01 to Regional Manager and Personal Manager etc to accept joining of workman. The Sub Area Manager under his letter dated 6-9-01 had stated that workman was absent for considerable period. Workman put his signature on muster roll of 5th, 6th Sept 2001 etc. The substance of claim of Ist party workman is management issued chargesheet dated 30-11-01 for his detention period. After arrest of workman, he was suspended, 50 % subsistence allowance was paid by

management. Workman has been exonerated from criminal charges. As per standing order, he is entitled to get full wages for period of detention in jail. His request for payment of full wages was not accepted therefore the dispute was raised. Workman claimed recovery of full wages for period of detention in jail.

3. IInd party filed exhaustive Written Statement at Page 9/1 to 9/7. It is submitted that workman was unauthorisely absent from 13-12-00. His whereabouts were not known to the management. The workman was absent without intimation or sanctioned leave. Chargesheet No. 994 dated 30-11-00 was issued to workman calling his explanation. Workman alongwith 3 other were prosecuted in criminal case under Section 302, 120B & 34 of IPC. workman was arrested on 13-11-00 and was detained in jail upto 10-7-01 the date of judgment in criminal case. Workman did not give information to management about his acquittal by Session Court. On his release from Jail, workman was allowed to join duty, he was transferred to Amdanand Project for the reasons that co-worker who was killed was working in the same mine where workman was posted. It is reiterated that the workman was not paid full wages claimed by him on the principle of no work, no pay. The transfer order was cancelled and workman was posted to his original post. The chargesheet issued to workman was not challenged. Management submits that workman is not entitled to full wages for period of detention in Jail claimed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|-----------------------|
| (i) Whether the action of the General Manager, Jamuna and Kotma Area of SECL in not making payment of dues to Shri Prithivalpal Singh for the period he was detained by police and transferring him to Amadand Sub Area is legal and justified? | Partly in Affirmative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

5. The terms of reference also includes legality of transfer of workman to Amadand Sub area. Said order of transfer was cancelled and workman was posted to original place of his working. Therefore said part of terms of reference needs no detailed discussion. As per pleading between parties, dispute pertains to denial of full wages to workman for period of detention in jail after his arrest by police. The pleadings are clear that arrest of workman and detention and acquittal from criminal case is not disputed by IInd party. Counsel for workman Shri Praveen

Yadav for sake of convenience produced copy of judgment in Session Case 32/01. Workman was accused No.1 in said case alongwith 3 other co-accused. Workman was acquitted in Session case. Affidavit of evidence is filed by workman covering most of his contentions in statement of claim about his arrest by police, prosecution in Session Court, joining duty and his transfer. His claim for full wages for detention period was not allowed by management. Workman in his cross-examination says he is graduate. He was prosecuted under Section 302, 120B & 34 of IPC for murder of Shri Ramdeo Singh. He was detained in jail for about 8 months. He did not recollect the date of his arrest but it was in month of November. He was in jail. After his acquittal, he had submitted joining report. There is no post of Regional Manager in Jamuna Kotma Area. He was working under General Manager. His attendance was marked in muster roll after he was allowed to join duty. He received transfer order but did not recollect the date.

6. Management's witness Shri R.S.Mundre in his affidavit of evidence supported contentions of IInd party in Written Statement. Arrest and detention of workman in jail is also stated by him. Documents Exhibit M-1 to M-4 are proved from his evidence. Exhibit M-1 is chargesheet issued to workman dated 30-11-00, M-2 is application submitted for joining by workman. M-3 is copy of office order dated 5-9-01 after acquittal by workman in criminal case, workman was allowed to resume his duty. M-4 is copy of office order dated 6-9-01. The order of transfer of workman was cancelled. He was posted in his original place. Copy of standing order is produced by counsel for Ist party.

Clause 28.9 provides notwithstanding provisions contained in these standing orders as above the management reserves the right to suspend a workman being prosecuted in a court of law for any grave criminal offence involving moral turpitude or murder until the disposal of the trial. In such cases, the workman concerned shall be entitled to 50 % of wages as subsistence allowance. In case the above workman is finally acquitted, he would be paid full wages for the period of suspension.

The above clause of standing order supports claim of workman for full wages for period of detention in jail after his arrest by police.

7. Learned counsel for IInd party Shri A.K.Shashi submits that workman was prosecuted for serious nature of offence. He was not working. On principle of no work no pay, workman is not entitled to full wages claimed by him. In support of his argument, learned counsel placed reliance on ratio held in

Case of management of Reserve Bank of India vrs Shri Bhopal Singh Panchal reported in 1994-I-LLJ-642. Their Lordship dealing with Section 33(C)(2) and Regulations, the period of suspension pending

criminal proceedings held power to treat the period of suspension either as on duty or as on leave, Labour Court while acting under Section 33(C)(2) has no jurisdiction to decide such question.

The ratio held in above cited case cannot be applied to present case as present proceeding is not under Section 33(C)(2) but proceeding is of reference under Section 10 of I.D.act. this Tribunal doesnot lack power to decide claim of workman of full wages under Section 10 of I.D.Act. As stated above, clause 28.9 of standing order squarely covers claim of workman for full wages during period of detention in jail. Therefore I record my finding in Point No.1 partly in Negative.

8. In the result, award is passed as under:-

- (1) The action of the General Manager, Jamuna and Kotma Area of SECL in not making payment of dues to Shri Prithivalpal Singh for the period he was detained by police and transferring him to Amadand Sub Area is not legal and proper.
- (2) IInd party is directed to pay full wages from date of arrest of workman till his release from jail after acquittal in session Case No. 32/01. Order of transfer of workman is already cancelled, hence needs no interference.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3018.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 63/2004) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/198/2003-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 63/2004) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Johilla Area of SECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/198/2003-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/63/04

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Chandramani Tiwari,
S/o Shri B.P.Tiwari,
Room No.2, Old Guest House,
Birsinghpur Colliery,
Distt Umaria (MP) ...Workman

Versus

Chief General Manager,
Johilla Area of SECL,
PO Nowrozabad,
Distt. Shahdol (MP) ...Management

AWARD

Passed on this 20th day of October 2014

1. As per letter dated 13-5-04 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/198/2003-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of SECL, Johilla Area in terminating the services of Shri Chandramani Tiwari S/o Shri B.P.Tiwari, General Mazdoor w.e.f. 7-12-2002 is legal and justified? If not, to what relief he is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 2/1 to 2/4. Case of workman is that he was appointed as General Mazdoor Category I on 23-8-83 though he is highly educated. That he was assigned work of clerk, supervisor, computer operator temporarily but he was not promoted on any of those posts. On 31-5-99, 14 mazdoors were promoted without interview contrary to the rules under pressure of mafia. Those promoted employees were newly engaged mazdoor. Workman had complained about illegal promotion given by management. It is further alleged that workman was President of Union. He was raising grievance of employees which resulted in difference with management. On 17-2-00, accident occurred in the mine, two mazdoors died in the incident. Workman complained about accident to higher authorities. It is also alleged that one contract labour was posted in night shift at electrical cable. Cable was cut/open. Management acted negligent. Labour had suffered his death. Due to grievance raised by workman as Union President, management wanted to teach him lesson and discharged from service.

3. Workman submits that on 19-6-01, he had raised dispute about his oral order about his presence and discharge as per oral directions of management. Workman had passed written examination for computer operator. Certificate was issued to him on 10-2-02. He had requested Regional office for his absorption as computer operator. However his request was not accepted. Workman submits that he had submitted various representations raising grievances of the workman. He was issued chargesheet about unauthorized absence. Workman had submitted applications for leave, he was suffering from illness. He was receiving treatment in their hospital in February March-2000. He was operated of his stomach. He was referred to hospital 63 times. He also treatment in Ayurvedic Hospital, he was referred 8 times of said hospital. Workman submits that chargesheet issued to him, he has given reply, his reply was not accepted. That Shri A.D.Jain, Sarkar against whom he had complained and they were prosecuted were appointed as Enquiry Officer. He had requested for change of Enquiry Officer. His request was not accepted, enquiry was not properly conducted. Order of his dismissal was passed on report of illegal enquiry. On such ground workman prays for his reinstatement with consequential benefits. Workman submits that he suffered loss of Rs. 2,25,000/- details given in Para-14 of his statement of claim.

4. IInd party filed Written Statement at Page 7/1 to 7/11. Claim of workman is totally denied. IInd party submits that workman Chandramani was employed as General Mazdoor Category I. he was working in Pinoua project. His services were terminated vide order dated 6-4-95 for gross misconduct. Mercy appeal preferred by him was sympathetically considered. He was allowed employment on executing settlement in Form H. Ist party workman was subsequently transferred to Birsinghpur colliery of Johilla area of SECL. Workman was habitual absentee. He remained absent without prior intimation or permission of sanctioned leave. He did not care to submit even application of leave. The attendance of workman during September 99 to November 2000 is shown in para-5 of Written Statement. 8 days in sept-99, 11 days in October 99, 26 days in November 99, Nil in December 99, 17 days in January 2000, 5 days in February 2000, nil in March 2000, 3 days in April 2000, Nil in May 2000, 14 days in June 2000, 18 days in July 2000, 2 days in August 2000, Nil in Sept & October-2000 and 5 days in November 2000. The chargesheet was issued to workman, reply given to the chargesheet was found unsatisfactory. Shri P.D.Jain Supervisor of mine was appointed as Enquiry Officer, Razwan was appointed as Management Representative. The details of hearing of enquiry are given in Para-8 of Written Statement. It is submitted that workman and co-worker were not present on 17-1-02 despite intimation given on 12-7-02.

Management's witness produced Form C register pertaining to attendance of workman. It is submitted that management's witness was cross-examined. Evidence of management was closed. Enquiry Officer recorded its finding that charges against workman were closed. Considering the report of Enquiry Officer, punishment of dismissal was imposed against workman. For unauthorized absence, punishment was imposed. IInd party referred to ratio held by Supreme Court in various cases and submits that punishment of dismissal against workman is legal.

5. Enquiry conducted against workman was held illegal as per order dated 25-3-13. Management was permitted to prove misconduct by adducing evidence.

6. Considering pleadings on record and findings on preliminary issue, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--------------------|
| (i) Whether the misconduct alleged against workman is proved by IInd party? | In Negative |
| (ii) Whether action of the management of SECL, Johilla Area in terminating the services of Shri Chandramani Tiwari S/o Shri B.P.Tiwari, General Mazdoor w.e.f. 7-12-2002 is legal and justified? | In Negative |
| (iii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

7. As discussed above, enquiry conducted against workman is found illegal. IInd party is permitted to prove misconduct by adducing evidence. Ist party produced documents. In Exhibit W-2, Ist party workman submitted report about accident occurred on 17-2-2000 causing death of Shri Laxman Tiwari, General Mazdoor. Copy of chargesheet is produced at Page 51. Charges relates to unauthorized absence of workman as details shown in Written Statement total 46 days. Misconduct alleged against under clause 26.24 remaining habitual absent from duty without justified reasons, remaining absent from duty without sanctioned leave. Burden lies on IInd party to prove unauthorized absence of workman during above said period. Documents produced by management Exhibit M-1 relates to allowing workman on duty as per settlement dated 10-1-98 in respect of his termination vide order dated 6-4-95. Exhibit M-2 is copy of application submitted by workman. Said documents shows that in March 2000, workman was receiving treatment in Gevra Hospital. He was operated of his stomach, he was not keeping well. Workman had requested employment giving undertaking that he will

work not less than 20 days in a month. Exhibit M-3 is memorandum of charges issued to the workman calling his explanation. His explanation was not found and it was decided to hold enquiry. Exhibit M-4 is intimation to workman issued by Enquiry Officer Shri K.D.Jain. Exhibit M-8,9,10, 11 are intimations given by Enquiry Officer. M-12 is permission for co-worker granted by management M-13,14 is intimation given to workman about hearing of enquiry. Exhibit 34 is termination order dated 7-12-02. Exhibit M-17 is copy of representation submitted by workman to SECL, Bilaspur. Exhibit W-1 is intimation given to workman by Regional office. W-2 is copy of order allowing workman on duty W-4 is forwarding letter of documents. Exhibit W-5 is letter given by management to ALC about working days of workman, W-6 is letter given by ALC to Chief General Manager, W-8 is permission granted by Personnel Manager to workman. W-9,10 is letter issued by management at request of workman to permit him work as clerk was not accepting. Exhibit W-11 is letter given to workman informing that he was granted permission for his reinstatement. W-12 is letter given by Personnel Manager calling information from Suptd. of mines. W-13 is intimation given to workman for releasing him for written test. W-14 is letter given by Dy.Regional Manager that the services of workman were terminated for unauthorized absence. W-16 is letter given by Suptd. of mines to workman. W-17 is letter given to IInd party by ALC. All those documents have no direct bearing about unauthorised absence of workman.

8. Management filed affidavit of Hiralal Jhawra on the point of preliminary enquiry. Workman also filed his affidavit. Both of them were cross-examined. As enquiry is vitiated, evidence needs no detailed consideration.

9. After enquiry against workman was found vitiated, management of IInd party has to prove the charges against workman. Management has filed affidavit of evidence of Shri G.S.Parihar. the attendance of workman is shown 5 days during the period 16-7-00 to 22-7-00. Removal of workman is shown from 6-12-02. The charges against workman are restricted to unauthorized absence for the period Sept 99 to Nov-2000. Thus affidavit of G.S.Parihar shown 5 days working during 16-7-00 to 22-7-00, 1 day working during 13-7-00 to 5-8-00. Rest of the period of unauthorized absence is not covered by chargesheet issued to workman. The affidavit of management's witness Shri P.S.Mundra is filed covering same period. It is surprise to say that evidence of Shri P.S.Mundra covers attendance of workman during Sept. 99 to November 2000 for 46 days. From evidence of witness of management, document Exhibit M-19 to M-33 are proved. Management's witness Shri P.S.Mundra in his cross-examination says that register for the period Sept 99 to Nov-2000 is not available. Only register for the period 5 year was available, register for remaining period are destroyed.

That Form C register for 9-7-00, November 00 was brought, its copies are produced. Entries dated 29-10-00, 4-11-00 shows workman was on EL. The form C register for onwards period was not available. The termination order of Ist party workman was issued by Shri Sarkar Sub Area Manager. The termination order was not issued by Lallan Giri. He was not posted in the mine during said period. Rest of cross examination of witness of management is devoted on the point whether order bears signature of General Manager or not, whether witness was given intimation. Workman had passed Data Entry Exam and workman was released for said examination. Said part of evidence in cross-examination has no direct bearing to the unauthorized absence of workman. The evidence of management's witness discussed above only covers unauthorized absence of workman during the period July 2000 to November 2000 for 24 days, rest of the period of unauthorised absence of workman is not covered in evidence of above witness of management as well documents Exhibit M-19 to M-21. Document Exhibit M-30 relates to transfer of workman from Pinoura Project to Birsinghpur Project. M-31 relates to request of workman for light duty was not accepted. Exhibit M-32 relates to treatment of workman in hospital. He should approach Doctor in hospital.

10. Documents also donot relate to alleged unauthorized absence of workman from duty. Thus it is clear that from evidence of management's witness Shri Mundra only his absence from duty from July 2000 to November 2000 is covered. The unauthorised absence of workman from September 99 to June 00 cannot be proved from evidence of witness as Form C register of above period was not available. The management's witness Shri G.S. Parihar was not produced for cross-examination. His evidence cannot be considered. To conclude, evidence adduced by management about unauthorized absence from July 2000 could not be proved for want of record i.e. Form C register. Thus charges alleged against workman cannot be proved. Rather as per documents corroborating evidence of management's witness Shri P.S.Mundra, workman was on duty only for 24 days during July to October 2000, he was absent from duty. From his evidence, it is difficult to hold that the absence of workman from duty was unauthorized as said witness in his cross-examination says workman was on EL during 29-10-00 to 4-11-2000 and medical bill register was not brought by him therefore evidence adduced by management is not sufficient to prove charges against workman. Therefore I record Point No.1 in Negative.

11. Point No.2- in view of my finding in Point No.1, charges of unauthorized absence against workman is not proved. The punishment of dismissal from service of workman is illegal. It cannot be sustained. Learned counsel for IInd party Shri A.K.Shashi on the point of punishment relies on ratio held in

Case of A.M.Eashwarachar versus Executive Engineer reported in 1995-I-LLJ 1065. Their Lordship of Karnataka High Court dealing with cross misconduct and dismissal held that habitual absence required to be dealt with firmly and it is very much in public interest.

In case of New India Assurance Co.Ltd. versus Vipin Beharilal Srivastava reported in 2008(3) Supreme Court Cases 446. Their Lordship dealing with workman unauthorisedly absent for over 600 days during period of absence, leave application sent to employer on which no order was passed. Inference as to implied sanction of leave when warranted proper mode for obtaining sick leave. Tribunal directed reinstatement with full back wages on grounds that respondent was suffering from tuberculosis and since management did not pass any order on his leave application, the workman was not absent unauthorisedly. That sick leave can only be granted on production of a medical certificate from a registered medical practitioner. There is no evidence that this was furnished by the respondent. Respondent did not join even after receipt of the letter from appellant the order directing removal from service is maintained, abandonment from service was distinguished.

The facts of present case are not comparable in present case. The evidence adduced by IInd party is not sufficient to prove charge of unauthorised absence or habitual absence of workman. The evidence of workman is not cogent about his unemployment or gainful employment. Management has not adduced evidence on above point. Considering above aspects in my considered view when management has failed to prove charges against workman and no evidence is adduced about gainful employment, reinstatement of workman with 50 % back wages would be appropriate. Accordingly I record my finding in Point No.2.

12. In the result, award is passed as under:-

- (1) The action of the management of SECL, Johilla Area in terminating the services of Shri Chandramani Tiwari S/o Shri B.P.Tiwari, General Mazdoor w.e.f. 7-12-2002 is not legal.
- (2) IInd party is directed to reinstate workman with continuity of service with 50 % back wages.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3019.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 67/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/184/2007-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3019.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2007) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Asansol as shown in the Annexure, in the industrial dispute between the management of M/s. Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/184/2007-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Sri Pramod Kumar Mishra,
Presiding Officer

REFERENCE NO. 67 OF 2007

PARTIES:

The management of B.M.P. Group of Collieries
of M/s. ECL

Vs.

Sri Raja Bouri

REPRESENTATIVES:

For the management : Sri P. K. Das,
Ld. Advocate

For the union (Workman) : Sri S. K. Pandey,
Ld. Representative

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 22.10.2014

AWARD

In exercise of powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its Order No.L-22012/184/2007-IR(CM-II) dated 07.08.2007 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of M/s. ECL in dismissing Shri Raja Bouri, U.G. Loader w.e.f. 29.10.2005 is legal and justified? If not, to what relief is the workman entitled?”

Having received the Order of Letter No. L-22012/184/2007-IR(CM-II) dated 07.08.2007 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 67 of 2007 was registered on 04.09.2007 and accordingly

an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

Sri P. K. Das, Ld. Adv., has filed a petition duly signed by the Chief Manager (Mining), B.M.P.Group, Sodepur Area of M/s. ECL stating therein that Sri Raja Bouri, the concerned workman has been reinstated by the management. Copy of Memorandum of Settlement, duly signed by the concerned workman, Sri Raja Bouri and competent authority of the management is also enclosed with the petition. Since the workman has already been reinstated the case is closed and according an award on **settlement** may be passed. Settlement is to form a part of award.

Considering the above facts, the case is closed and accordingly it is awarded that the case has been settled as per form 'H' memorandum of settlement between both the parties as an integral part of it. The terms and conditions of the settlement shall be binding upon both the parties. Hence, it is ordered.

ORDER

Let an "Award" be and the same is passed as per above discussion. Form 'H' containing terms and conditions does form as an integral part of the Award. Send the copies of the award to the Govt. of India, Ministry of Labour & Employment, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3020.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 90/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/452/2004-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3020.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 90/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute

between the management of M/s. Western Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/452/2004-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/90/05

Presiding Officer : SHRI R.B.PATLE

Shri Galjhar,
S/o Ramsaw rep by General Secretary,
Samyukta Koyla Mazdoor Sangh (AITUC),
CRO Camp Iklehra,
Chhindwara ...Workman

Versus

General Manager,
Western Coalfield Limited,
Pench Area, PO Parasia,
Chhindwara ...Management

AWARD

Passed on this 3rd day of November, 2014

1. As per letter dated 1-9-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/452/2004-IR(CM-II). The dispute under reference relates to:

“Whether the action of the management of Pench Area of WCL in terminating the services of Shri Galjhar S/o Shri Ramsaw Timber Mistry Token No. 871 is legal and justified? If not to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at Page 3/1 to 3/2 through SKMS Union. Case of workman is that he was working as timber mistry at Mahadeopuri colliery. His token No. was 871. He was served first chargesheet on 3-7-99. One more chargesheet was served on him on 29-7-00. The chargesheet was served on him on 2-11-2000. Enquiry was fixed on 18-11-00. Workman was present in Enquiry Proceedings. Enquiry was adjourned to 27-11-00. During pendency of enquiry, he was permitted to join duties. On 18-5-01, the chargesheet issued to him. The charges in earlier chargesheets were repeated in said chargesheet. He had submitted reply to the chargesheet. On 22-6-01, again management permitted him to join duty. As per letter dated 20-6-01, he was informed about enquiry of

chargesheet dated 18-5-01. Workman submits that management allowed him to join duty and sometime fresh chargesheet issued to him. He was directed to join duty. No action was taken on earlier chargesheets. Workman submits that management was misleading him. He was terminated from service violating principles of natural justice. On such ground, workman prays for reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 7/1 to 7/6. Case of IInd party is that workman was habitual absentee. He remained unauthorisely absent from duty without intimation or sanctioned leave. Chargesheet was issued to workman on 3-7-99 under clause 26.30, 26.24 of standing orders. However no disciplinary proceedings were initiated against workman to grant him opportunity to improve his conduct and put normal attendance. Workman did not show improvement in attendance. He remained unauthorisely absent. Again chargesheet was issued to workman on 29-7-00 under Clause 27.30 of standing orders. Enquiry was ordered. Enquiry officer and Management Representative were appointed on 2-11-00. During pending Enquiry proceedings, chargesheet was issued to workman. He was granted permission to resume duties and to give opportunity for improvement in his conduct.

4. IInd party further submits that workman instead of improving his conduct and put in proper attendance, remained absent. Management has shown attendance of workman 59 days in 1997, 70 days in 1998, 102 days in 1999 and 69 days in 2000. Management reiterates that enquiry was conducted as per rules. workman was given opportunity for his defence. All adverse allegations are denied. That workman had admitted charges unconditionally. Enquiry Officer submitted his finding that charges against workman were proved and holding workman guilty of charges dismissed workman on 9-2-02. It is submitted that enquiry is properly conducted, leniency was repeatedly shown to the workman. On such grounds, IInd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings? | In Affirmative |
| (ii) Whether punishment of dismissal of workman is proper and legal? | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. Enquiry conducted against workman is found proper and legal as per order dated 16-4-2013. Document Exhibit W-1 shows chargsheet was issued for unauthorised and habitual absence under Clause 26.30, 26.24 of the standing orders. Exhibit W-2 chargesheet was issued for unauthorized absence under Clause 26.30. Exhibit W-3 is order of appointment of Enquiry Officer, Presenting Officer. Exhibit W-4,5 are intimation of Enquiry Proceedings. In view of enquiry conducted against workman is found vitiated, no detailed discussion of Exhibit W-6,7 is necessary. Exhibit W-8 is also notice of enquiry given to the workman. In view of enquiry found legal, the evidence in Enquiry Proceedings needs to be considered for deciding whether charges against workman are proved. Enquiry Proceedings dated 2-1-02 shows workman admitted charges. Enquiry Officer submitted his report. The workman himself admitted charges, it is sufficient to prove charges against alleged against workman. For above reasons, I record my finding in Point No.1 in Affirmative.

7. Parties did not adduce evidence on other issues. Considering repeated charges of habitual absence issued to workman in the past, workman has not participated in the reference proceeding. He has not adduced any evidence on other issues, I find no reason to hold punishment of dismissal imposed against workman is exorbitant and illegal. For above reasons, I record my finding in Point No.2 in Affirmative.

8. In the result, award is passed as under:-

- (1) The action of the management of Pench Area of WCL in terminating the services of Shri Galjhar S/o Shri Ramsaw Timber Mistry Token No. 871 is legal and proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3021.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 119/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/174/2001-आईआर (सीएम-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3021.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central

Government hereby publishes the Award (Ref. No. 119/02) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Amlai & Chachai Sub-Area of SECL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/174/2001-IR (CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/119/02

Dy. General Secretary,

Koyla Shramik Sangh (UTUC),

PO Amlai,

Shahdol

...Workman/Union

Versus

Sub Area Manager,

Amlai & Chachai Sub-Area of SECL,

PO Amlai, Shahdol

...Management

AWARD

Passed on this 5th day of November, 2014

1. As per letter dated 27-8-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/174/2001-IR(CM-II). The dispute under reference relates to:

“ Whether the action of the Sub Area Manager, Amlai Chachai Sub-Area of SECL, PO Amlai, Distt. Shahdol (MP) in not regularizing Shri Dalsingar and Shri Samsuddin from lamp charger to lamp issue/return clerk of Chachai U.G.Mine of SECL is legal and justified? If not, to what relief the concerned workman is entitled for?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim at Page 2/1 to 2/3 through Dy. General Secretary of Koyla Shramik Sabha. The case of Ist party is that workman Dalsingar was appointed in Burhar, Sohagpur Area of SECL on 1-10-84. From 1-1-92, he was working lamp issue/ return clerk Grade III at chachai. Said mine was closed and workman was transferred to Burhar group, Sohagpur in SECL. Workman Samsudin was appointed at Sohagpur Area of SECL on 3-12-84. From 1-1-92, he was working as lamp issue and return clerk Grade III at Chachai underground mine. Said mine was closed. Therefore he was transferred to Bungwar mine. That both

workmen were working as clerk Grade-III. As per letter dated 15-9-99 Dy. Personal Manager called list of employees for regularization. As per letter dated 13-6-95, Dy. Regional Manager, Chachai sub Area of SECL has directed for regularization of non-designated clerk working as lamp issue/ return clerk Grade III. It is also submitted that rules for promotion IR No. 13 dated 26-6-84 provides for 3 years experience for promotion of lamp issue and return clerk. It is submitted that both workmen are working on said post from 1-1-1992. Both workmen be regularized on said post. That both workmen had repeated submitted applications for their promotions but were not considered. On such grounds, it is prayed that both workmen be regularized on the post of lamp issue/return clerk Grade III.

3. IInd party filed Written Statement at Page 13/1 to 13/12. IInd party submits that Shri Dalsingar was initially appointed as General Mazdoor on 1-10-84, Samsuddin as General Mazdoor on 3-12-1984. Both were working as lamp incharge. They never worked as lamp issue/return clerk. Claim of workman is opposed on some letters alleged to have been issued by officers in 1999. The dispute is raised in 2002 is highly belated. The same is not tenable. IInd party further submits that permission cannot be claimed as a matter of right. The promotional channels for all cadres are given in cadre scheme. The qualification for selection/promotion to the post of clerk Grade III is electrical or equivalent examination, 3 years in the company, passing selection/test. Workman were not selected after holding test. Personal department was instructed that deployment for clerical work should be brought to the notice in writing. That headquarter of SECL issued Circular No. 380 dated 1-10-99 intimating the decision of functional directors. That no diversion of manpower to non-productive job remained. The diversion of manpower would be considered serious misconduct. It is further submitted that as per cadre scheme, promotions are given. The claim of workman based on ground of they were promoted to work as lamp issuer doesnot give them right for regularization on the post of Clerk Grade III. Workman were never allowed to perform duty of clerk against the vacant post. They were never paid wages of clerk. There is no scope for regularization of workman as no sanctioned post is available. Workman never demanded wages of said post. The required educational qualification is H.Sc with 3 years experience in the company. The lamp issue and return clerk is selection post. Both workmen were not selected. On such ground, IInd party reiterates that workmen are not entitled to regularization on the post of Clerk Grade-III. All adverse contentions of workmen are denied.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under.

My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---|
| (i) Whether the action of the Sub Area Manager, Amlai Chachai Sub Area of SECL, PO Amlai, Distt. Shahdol (MP) in not regularizing Shri Dalsingar and Shri Samsuddin from lamp charger to lamp issue/return clerk of Chachai U.G. Mine of SECL is legal and justified? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workmen are not entitled for regularization as claimed by them. |

REASONS

5. Both workmen Dalsingar and Samsuddin filed identical affidavit claiming that they were initially appointed on 1-10-84, 3-12-84. Since 1-1-1992, they were working as lamp issue and return clerk Grade III. They have also referred to letters dated 13-3-99 issued by Dy. Regional Manager, Chachai in the matter of regularization of clerk Grade III. They have also referred to letter dated 13-6-95 in the matter of regularization. They claim to be working on said post from 1-1-1992 and as such entitled for regularization.

6. Shri Dalsingar in his cross-examination says that he was appointed as General Mazdoor in 1984. For post of General mazdoor any educational qualification is not required. Illiterate persons can also be appointed as General Mazdoor. That his name was sponsored through Employment Exchange but any documents in that regard are not produced. He was unable to tell whether his name was registered in Employment Exchange or his educational qualification was recorded in said office. After his appointment, he passed H.Sc examinations. He knows about cadre scheme that for post of General Mazdoor, cadre scheme is not provided. That appointments are made on vacant post of Clerk Grade-III. The applications are called from General Mazdoors. The selection Committee is to be formed. Test is conducted . after written test, the candidates are called for interview. Workman had not passed any test. That he was working as lamp issue/return clerk as per oral directions. That pay scale of lamp issue/return clerk Grade III is more than lamp charger.

7. The evidence in cross-examination of Shri Samsuddin shows that he was appointed on 3-12-84. At the time of appointment, he disclosed that he passed 9th standard. He denies that names of illiterate persons are sponsored through Employment Exchange for post of General Mazdoor. He was working underground in

Chachai Mine. That said mine was closed, he was transferred to Bungwar mines. He was working as lamp issue/return clerk Grade III. Order in writing was given to him by Colliery Manager Shri Sarkar. That promotions are given as per cadre scheme. When the post is vacant, educated General Mazdoor are called for selection by the Committee. The workman in his further evidence says that Manager Sarkar had issued order to work in Grade III. Experience Certificate was also issued for his promotion. That he had not claimed wages for promotional post. The entire evidence of both workmen shows that they had not passed test required for clerical Grade III. Shri Samsuddin has not passed matriculation. As per evidence, he passed only 9th standard.

8. Management's witness Shri Satya Prakash supported contentions of management. The evidence in cross-examination is on the point that 3 years experience with matriculation is required for selection of Clerk Grade-III. Both workmen were not selected by any Committee. They are claiming to be working on the post of Clerk Grade-III as per oral directions. Document M-4 shows both workmen were working as lamp issue/return clerk on 1-1-1995 M-5 is copy of cadre scheme which provides the candidate should pass electrical or equivalent examination with 3 years experience. When cadre scheme provide for test were not supplied to said list, their regularization cannot be allowed. Exhibit M-1 is copy of cadre scheme. M-2 is recommendation of DPC of both workmen to post of lamp issue/return mazdoor on 26-11-89. M-3 is copy of marksheet. When cadre scheme is introduced for promotions, both workmen have not been recommended by DPC. They were not selected for post of Clerk Grade-III. As per workman, they were orally directed to work as clerk Grade III. Their claim for regularization cannot be upheld. For above reasons, I record my finding in Point No.1 in Affirmative.

9. In the result, award is passed as under:-

- (1) The action of the Sub Area Manager, Amlai Chachai Sub Area of SECL, PO Amlai, Distt. Shahdol (MP) in not regularizing Shri Dalsingar and Shri Samsuddin from lamp charger to lamp issue/return clerk of Chachai U.G.Mine of SECL is legal and proper.
- (2) The claim for regularization of both workmen are rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3022.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एन.सी.एल. के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक

अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 22/2005) को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/124/2003-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3022.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/05) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of M/s. Jayant Project of Northern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/124/2003-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/22/05

PRESIDING OFFICER: SHRI R.B.PATLE

Secretary,
Koyla Shramik Sabha (HMS),
B-10, Amlori Project,
Post Amlori,
Distt Sidhi (MP) ...Workman/Union

Versus

Chief General Manager,
Jayant Project of Northern Coalfields Ltd.,
PO Jayant,
Distt. Sidhi (MP) ...Management

AWARD

Passed on this 14th day of October, 2014

1. As per letter dated 18-2-05 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/124/2003-IR(C-II). The dispute under reference relates to:

“Whether the action of the Chief General Manager, Jayant of NCL, Distt. Sidhi (MP) for not granting the increment to Shri Shriram Dumper Operator on due date i.e. 25-3-85 and 25-3-91 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Order of reference dated 18-2-05 relates to

legality of denial of increments to Shri Shriram Dumper Operator from 25-3-84, corrigendum was issued in name of Secretary of Union. Statement of claim is submitted by LR of deceased workman. They have pleaded that workman Late Shriram was appointed as Dumper Operator Grade II from 25-3-83. His basic was fixed Rs. 30.14 per day in revised scale Grade C in NCWA-III. That late Shriram was promoted on post of Dumper Operator Grade I from 25-3-85. He had represented for grant of annual increment form 25-3-85. His request was not allowed. Late Shriram was also promoted as Sr. Dumper Operator from 25-5-91. He was not given annual increments from said date. The annual increments are from 25-3-85, 25-3-91 respectively. Workman Shriram died on 2-3-08 during pendency of reference. LR is substituted after his death.

3. IInd party filed Written Statement at Page 12/1 to 12/8. Preliminary objection is raised by IInd party that Union had failed to substantiate claim by documentary evidence. Therefore Ministry refused to make reference. It is reiterated that reference is not tenable. Union did not produce documentary evidence before Conciliation Officer or appropriate Government. The dispute relating to denial of increment from 25-3-84 is raised after 22 years is not tenable is highly belated.

4. IInd party further submits that workman Shriram was initially appointed as Dumper Operator grade II from 27-12-82. Workman reported for duty from 25-3-83. The conditions of service of employees are governed by NCWA, cadre scheme is provided for job nomenclature. JBCCI is constituted under NX+CWA is competent to issue implementation instructions. That I.I.No. 32 deals with increments to be granted to the employees. The relevant portion are reproduced by IInd party that employees appointed on or after 1-1-1979 placed in time scale, their next increment found due on anniversary of date of their appointments, subsequent increments become due on anniversary of their last increments etc. IInd party has given details of pay fixation of workman in para 13 of Written Statement. That due of grant increments to workman on 1-4-85, as Dumper Operator Grade II. He was not given increment as workman was promoted to higher grade Dumper Operator Grade I on 31-3-85. The particulars shown in Written Statement Para 13 that annual increment due on 1-4-85, 1-4-91 were not granted to workman. Workman was promoted on date of completion of 2 years. Promotion of workman cancelled was restored. It is reiterated by IInd party that annual increment due on 1-4-85 was not granted as workman was promoted to Dumper Operator Grade I on 25-3-85. Workman was promoted as Sr. Dumper Operator on 25-3-91. His increment was due on 1-4-91. Workman was not granted increment. All other contentions of LR relating to denial of increment are denied. It is admitted that annual increments are given to the employees. Such increments were given to workman. Workman was granted increments as per prevailing rules.

claim of workman is based on misunderstanding of increments to the employees, claim is incorrect. Workman was given appropriate fixation and increments on due dates. Claim of workman was sponsored by Union. Workman was given promotion on recommendation of DPC. Employees whose appointment falls on 16th to 31st day of a month, their increments falls due on 1st day of next month. On such contentions, IInd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the Chief General Manager, Jayant of NCL, Distt. Sidhi (MP) for not granting the increment to Shri Shriram Dumper Operator on due date i.e. 25-3-85 and 25-3-91 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

6. The dispute between parties relates to denial of increment to workman Late Shriram. Workman died during pendency of reference. Claim is prosecuted by its LRs. Smt. Kamla Devi widow of workman filed affidavit supporting claim raised in statement of claim. Appointment of workman Shriram as Dumper Operator Grade II from 25-3-83 is not in dispute, the claim of workman relates to denial of increment from 25-3-85 to 25-3-91 when the workman was promoted to higher post. Dumper Operator Grade I, Sr. Dumper Operator. Widow of workman in her cross-examination says her affidavit is based on documents produced on record. claim relates to increment of her husband. Her husband was claiming increment in 1983, again she was not sure about it. The claim is raised in 2006. Her husband was appointed as Dumper Operator Grade II, Grade C Pay scale Rs. 3300. Again corrected to Rs. 33/- she was not sure about the pay scale. Widow was unable to tell when her husband was promoted as Dumper Operator Grade I, that her husband was not promoted after his promotion to Dumper Operator Grade I, the oral evidence of widow of workman is not cogent and reliable.

7. Documents are produced Exhibit W-1 is notesheet submitted by Presenting Officer. It refers to late Shriram was appointed w.e.f. 25-3-83, date of annual increment was shifted first to successive months i.e. 1-1-84, 1-1-85 if he remained in same scale. In terms of Annexure B-2 Circular dated 22-6-86 the claim for increment of deceased workman was recommended by Personal Officer from 25-3-84, 25-3-85 the anniversary date of annual

increments. Annexure W-1 finds enclosure about fixation of workman. Workman was given increment from 1-4-84 after 25-3-83. Document Exhibit W-2 deals with the approval of increments. W-3 is copy of Circular No. 134/80 dated 3-7-80 provides for increments from 1st day of month in case, the date of increment is 15th day of month. If date of increment is 16th day to last day of month, the increment is to be given from 1st day of next month.

8. Exhibit W-4 is office order dated 26-3-83. Late Shriram was appointed as Dumper Operator Grade II. He was allowed to join duty w.e.f. 25-3-83. Exhibit W-5 office order promoting workman as Dumper Operator Grade-II w.e.f. 25-3-84. Exhibit W-5(a) is office order dated 29-1-86, workman was promoted as Dumper Operator Grade I from 25-3-85, Exhibit W-6 workman was allowed to draw difference of wages on his promotion as Dumper Operator Grade I. Exhibit W-7 is copy of office order dated 28-1-00. Workman was restored cancelling of his promotion as Sr. Dumper Operator. As per Exhibit W-8, deceased workman Shriram was promoted as Dumper Operator Special Grade w.e.f. 10-4-01. W-9 is copy of Death Certificate. Above documents clearly shows promotion given to the workman time to time.

9. Management produced documents Exhibit M-2 appointment of workman Shriram to the post of Dumper Operator Grade II dated 27-12-82. Exhibit M-3 is copy of I.I.M.No.32 providing increments as per NCWA. The date of increment is beyond 15day of the month. The increment is to be given from 3rd day of next month. Exhibit M-4 is order of promotion of workman as Dumper Operator Grade I from 25-3-85. As per document Exhibit M-3 I.I. & Exhibit W-3 produced on record, when increment of employees is due after 16th day till end of month, the increments is to be given first day of next month. The evidence on record clearly shows workman was promoted as Dumper Operator Grade II on 25-3-85, Grade-I on 25-3-91. Workman was not granted increments. As per Exhibit W-3 and M-3, workman was entitled to increments from 1st day of Next month.

10. Affidavit of evidence filed by management's witness Shri Suman Lata Dehariya is on the point that deceased workman was granted increment on 1-4-84. He could not be granted increment from 25-3-84. Workman was promoted as Dumper Operator Grade I from 25-3-85. Benefit of fixation was given as per rules. From Para-15 of affidavit of management's witness it is found that workman was not granted increment from 1-4-85, 1-4-91. Reasons are not explained for denial of increment from those date. As per Exhibit W-3 & M-3, workman was entitled to increments from 1st day of next month of the anniversary of date of increment. Management's witness in cross-examination denied that when employee is promoted to higher grade, his increment is due after completion of one year. It is denied that the recommendations of Dy.General Manager in Exhibit W-1 was not followed. Witness explained that

under JBCCI Instructions issued from time to time, she was not posted at Jayant Project. She was unable to tell whether Shri R. S. Pandey, Niranjana, Kuldeep Singh were junior to Shriram. Witness of management denied they were granted increment on date of anniversary and Shriram was not granted increment. That she had not seen record of Shri R. S. Pandey, Kuldeep and Niranjana.

11. As per Exhibit W-3 & M-3, workman was entitled for increment from anniversary of date of increment and increment was to be given from first day of next month as workman was promoted from 25-3-85, 25-4-91. The denial of increment of late Shriram is illegal. For above reasons, I record my finding in Point No.1 in Negative.

12. Point No.2- In view of my finding in Point No.1 denial of increment to Late Shriram after his promotion to Dumper Operator Grade I Sr. Dumper Grade I on 25-3-85 is illegal. However as per Exhibit W-3 & M-3, the deceased is entitled to increment from 1st day of next month i.e. 1-4-85 and 1-4-91 instead of 25-3-85 and 25-4-91. Accordingly I record my finding in Point No.2.

13. In the result, award is passed as under:-

- (1) The action of the Chief General Manager, Jayant of NCL, Distt. Sidhi (MP) for not granting the increment to Shri Shriram Dumper Operator on due date i.e. 25-3-85 and 25-3-91 is not legal.
- (2) Management is directed to grant increments to deceased workman Shriram from 1-4-85 & 1-4-91 after his promotion. Difference of emoluments be paid to the workman within two months from the date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3023.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 64/99) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/140/98-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3023.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/140/98-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/64/99

Shri R.K.Gupta,
Clerk-cum-Cashier, 394,
Shastri Colony, Rajiv Gandhi Ward,
Katni,
Jabalpur (MP) ...Workman

Versus

Regional Manager,
Bank of Maharashtra,
Regional Office, Wright Town,
Jabalpur ...Management

AWARD

Passed on this 3rd day of November, 2014

1. As per letter dated 27-1-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/140/98-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Bank of Maharashtra, Jabalpur in terminating the services of Shri R.K.Gupta, clerk-cum-cashier from 19-2-96 was legal and justified. If not, what relief workman is entitled to?”

2. After receiving reference, notices were issued to parties. Ist party workman submitted statement of claim at page 2/1 to 2/8. Case of workman is that he was appointed as clerk on 7-4-80. He was posted at Kamti. In 1983, he was transferred to Jabalpur. His service record was unblemished. That as per order dated 24-12-90, he was suspended without assigning any reasons. Chargesheet

was issued to him on 16-7-91. According to workman, the charges are fabricated with a pre-determined mine to dismiss him from service. That formal enquiry was held. Enquiry Officer in his report dated 26-9-95 found him guilty of charges. Workman received report of Enquiry Officer in October, 1995. He submitted representation on 20-12-95 challenging findings of Enquiry Officer. Workman submits the finding of Enquiry Officer are perverse. Disciplinary Authority without application of mind issued order of his dismissal on 19-2-96. Workman was dismissed on 9-5-97. That charges against him related to the year 1986-90. In all 7 charges were alleged against him. Any of the charge was not of the consequence that Bank suffered any loss. Charges were in the form of related to day-to-day working not warranting dismissal from service. That the working in the bank is extended at Jabalpur branch. There was no hard and fast rule earmarking one posting for one clerk. Clerks as a class were deployed and assigned work on various counters dealing with different nature of transactions. Assignment of work depends on day-to-day requirements. A group of 4-5 clerks known as relievers for providing substitute service in place of clerks gone on leave. Workman was one of such reliever. No fixed duty was assigned to him.

3. Workman further submits that first charge against him related to loss of pay orders on 11-1-1989 while he was sitting over DD counter. Workman alleged to be negligent in his work. Workman himself reported loss of pay order to branch Manager on same day at 3.45 PM. That there was no provision of law to keep pay orders. Bank Manager being administrative Head was obliged to take action that no pecuniary loss was caused to the Bank. Enquiry Officer held them guilty of such charges without considering his bona fide act immediately reporting matter to Branch Manager. IInd charge against him related to shortage of cash. That he was reliever was to sit on dispatch desk on 3-8-89 after starting his work. That cash was not tallied for long time. Workman informed about it to Branch Manager. However he was asked to carry out his work and try to balance the same. Workman accordingly work for 5 days on his table. On 8-8-89, he was told to sit in cash department. There was no alternative for him but to move to cash department leaving dispatch desk therefore he submits that charge of shortage of cash cannot be attributed to him. That the cash and stamps were in custody of Branch Manager himself and the same were given to dispatch clerk in morning.

4. Third charge against him related to using amount to credit of his own account and 4 other accounts. He submits that he was reliever at branch. Branch Manager asked me to open new ledger of Savings Bank. Accordingly new ledger were opened and transferred the correct balances in the accounts. Thereafter he had proceeded on leave. There is no occasion to deal with new ledger. Somebody from branch added figures preceding the balances

transferred by workman which resulted in inflating the balances in the accounts. Workman submits that on his return, he presumed that bonus must have been paid and accordingly the workman withdrew the amount. Subsequently Branch Manager asked about it. The same was adjusted. Next charge related to shortage in cash Rs. 50/-, the charge is incorrect. That 50 Rs. Note came from counter and resulted in shortage in the packet of notes.

5. The charge w.r.t. shortage of Rs.100/- note in packet. Workman had requested other six packets may also be provided to him so that he can check them whether there are 101 pieces and shortage was inflicted. However no action was taken as per his request. That Head cashier who received cash and remitted to SBI was not questioned in that regard. The charge No. 4(d) relates to tendering cash by M/s. United India Insurance Company. The amount was shown in figures Rs. 2903 and Rs. 2908/- while tendering cash they remitted Rs. 2903/- and accordingly the workman accepted the same and gave the receipt. In substance, the workman submits charge against him were not correct.

6. 5th charge against him related to Leave without pay during a span of 4 years period. The entire leave was taken by him for his sickness supported by Medical Certificate was sanctioned by the authority. The charge of drunkenness is denied. It is submitted that management was pre-determined for his dismissal because of his Union activities.

7. Ist party further submits that enquiry was not conducted following principles of Sastry Award or principles of natural justice. He was not supplied documents. He was not permitted to cross-examine witness of management. Enquiry Officer acted as prosecutor. He was not given opportunity to produce his defence evidence. Enquiry Officer was Sr. Officer of the Bank always standing with management. Enquiry Officer was not impartial, enquiry is vitiated. He also submits that show-cause notice was not issued to him. Opportunity to personal hearing was not given to him. Enquiry was conducted illegally. On such ground, workman prays for his reinstatement with back wages.

8. IInd party filed Written Statement at Page 3/1 to 3/10. The material contentions of workman w.r.t. charges are denied. That claim of workman for reinstatement cannot be allowed. It is submitted that workman was working as clerk at Jabalpur branch. He committed certain misconduct. The details of charges against workman are given. Charges under clause 19.5(c), (d) & (j) were of serious nature. The punishment of dismissal without notice is provided. Other charges relates to minor penalty. Details are shown in para-4. IInd party submits DE was conducted against workman. He was allowed reasonable opportunity for his defence. Principles of natural justice were followed. Enquiry Officer

considering evidence and arguments on both sides submitted his report on 26-9-95. The dismissal authority considering serious charges proved against workman imposed punishment of dismissal. The appeal preferred by workman was dismissed as per order dated 9-5-97. The findings of Enquiry Officer were confirmed. The allegations of workman about Enquiry Officer acted as prosecutor. The findings of Enquiry Officer are perverse are denied. It is denied that workman was suspended without assigning reasons. It is denied that punishment of dismissal is disproportionate to the charges against workman.

9. IInd party further submits that workman acted negligently and failed to take proper care for keeping pay order books in custody. One of pay order lost pay orders from the book bearing No. 0738253 was used by unknown stranger to defraud the Bank. The said pay order dated 25-2-89 was issued in favour of M/s. Ecotex India for Rs. 34,200/- was presented at Gwalior branch for payment through clearing by Indian Overseas bank. Said branch did not make payment to M/s. Ecotex India Ltd. it is further submitted that workman handed over charge of dispatch desk to one Ramdeo Saydiwal, the balance was Rs. 481.70 but the actual stamp found and handed over by workman were of Rs. 255.45 thus there was shortage of Rs. 226.25 while working on dispatch desk, no expenses were made during temporary period of his working. That in staff Account No. 133, balance amount was Rs. 5.86. amount was inflated by Rs. 1100/- while carrying of new ledger. Workman withdrawn said balance with fraudulent motive. IInd party reiterates that all charges against workman are proved from evidence in Enquiry proceedings. Findings of Enquiry Officer are supported by evidence. The same are not perverse. Workman was in habit of attending duties under inference. His drunkenness was cause for his negligence in work. The reputation of Bank is spoiled from such acts. The punishment of dismissal is proper. On such ground, IInd party prays for rejection of claim.

10. As per order dated 24-6-09, enquiry conducted against workman is found legal and valid. Considering pleadings on record and findings on enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|------------------------------------|
| (i) Whether the charges alleged against workman are proved from evidence in Enquiry Proceedings? | In Affirmative |
| (ii) Whether punishment of dismissal imposed on workman is proper and legal? | In Affirmative |
| (ii) If not, what relief the workman is entitled to?" | Workman is entitled to any relief. |

REASONS

11. As per order dated 24-6-09, enquiry conducted against workman is found legal and proper. The question remains for adjudication whether from evidence in Enquiry Proceedings, charges against workman are proved or findings of Enquiry Officer are perverse. The next question remains to be decided whether punishment of dismissal imposed against workman is proper and legal.

12. Learned counsel for workman Shri A. K. Shashi during course of argument submitted charge sheet issued to workman was amended twice. The order on preliminary issue holding enquiry valid was challenged in W.P.No. 11516/09 allowing liberty to workman to assail the order on preliminary issue along with findings on other issues. Said Writ Petition was disposed. It is clear from the judgment that Hon'ble High Court has not set aside order on preliminary issue therefore I find it would not be wise on my part to deal with the finding on preliminary issue. Learned counsel for workman Shri A. K. Shashi pointed out my attention to charges against workman related to loss of pay order, shortage of stamps from his custody, taking wrong entries, false accounting, unauthorized absence, attending office in drunkenness condition on duty. It was emphasized that even the petty misconducts were included in charge sheet which was issued in the year 1991. The management had waived its right to issue charge sheet. However any provision was not brought to my notice that charge sheeted to the delinquent employee should be issued within particular period. Learned counsel further submits that the findings of Enquiry Officer are perverse. The evidence of witnesses was not recorded in presence of charge sheeted employee. So far as argument related to perversity of findings, there was no dispute that evidence of 13 witnesses of management was recorded in Enquiry Proceedings. The evidence of witnesses covered each of the charges. Management's witness Shri L.G.Hardikar confirmed complaint given by him. He admitted his signature and documents. The complaint is dated 7-8-89 addressed to Branch Manager. The charge sheeted employee was the receiving cashier on the day of incident. During course of argument, learned counsel for both parties did not deal with the details of the evidence of management's witnesses. Management's witness D.N.Vase was working in Jabalpur branch in January, 1986 as cashier. Workman was receiving cash on 23rd and 24th June 89. The evidence of said witness is devoted about genuineness of the documents which were verified. Document ME-2 witness admitting his signature on said document. He has signed against the remark while taking cash by Mr. Sinha on 24-6-89. 99 notes of 100 Rs was found in the packet, 1 note of Rs. 100 was less. The envelope was of 23-6-89. His evidence on the point is not shattered in his cross-examination. His evidence in cross-examination shows the recording was not written in his

presence. However as per pleading in statement of claim, workman himself has pleaded that one 100 Rs note was found less in envelope when he was working as cashier. In that context, the evidence of management's witness cannot be disbelieved. Management's witness Shri A.K.Bapat in his evidence says about missing pay order book while workman was working. Workman himself has stated that he has complained about it to the Branch Manager. The fact remains that pay order book was lost while workman was in charge. Whether the pay order was kept in key and lock and workman is not responsible for loss of pay order book, the contentions of workman cannot be accepted and the pay order book is document and one of cheque is tried to be misused at Gwalior.

13. Management's witness MW-4 Prashant Sonwanshi was working in December 1992 as cashier and teller. In his evidence he says on 7-7-89, CSE was receiving cashier. Letter ME-11 was issued. Said document is admitted by Defence Representative and marked Exhibit 11. Management's witness admits its contents while Rakesh Gupta was receiving cash he observed that cash was not proper and he was unable to tally cash received from him. In his cross-examination said witness of management says that it depend on working habit of individual whether he should put date of receipt or not. Management's witness No.5 Ramdeo Saidiwal in his evidence says about documents page 176 to 180 written in handwriting of CSE Raksh Gupta. Those documents were admitted in evidence and marked Exhibit M-16. In his further evidence he says that stamps worth Rs. 105.40 were used and stamps worth Rs. 255.45 were handed over to him. The evidence of management's witness on the point of workman had inflated amount while preparing new ledger. Workman was coming late and leaving office early. Found him on drunkenness condition is supported by management witness. The evidence of management's witness is not required to be appreciated as Appellate authority. The legal position is rather settled that in domestic enquiry, the burden of proof is not required as in criminal case. The findings of enquiry Officer w.r.t. all charges are supported by evidence.

14. Shri A.K. Shashi argued that findings of Enquiry Officer doesnot show evidence was read over. Zerox copy of enquiry proceeding is produced shows signatures of Enquiry Officer, Presenting Officer, Defence representative, Chargesheeted Employee on enquiry proceedings. Therefore I donot find substance in above argument. Besides above point relates to fairness of enquiry. It is also submitted that DE papers are not exhibited and therefore cannot be considered in evidence. The management's witness A.K.Hasari has referred enquiry record in his affidavit of evidence. He was cross-examined in detail by counsel for workman without raising any objection. Therefore above submissions cannot be

accepted. It is further submitted that documents about medical examination are not produced. The document Exhibit ME-104 is medical certificate. The workman was found under intoxication consuming alcohol. It is submitted that for withdrawal of Rs. 1100/- passing officer is responsible. The workman written new ledger inflating amount and withdrawn it. Certainly workman is also responsible for it. Arguments on above point cannot be accepted.

15. The arguments advanced by learned counsel for workman that showcause notice was not issued to workman before imposing punishment, personal hearing was not given to him cannot be re-appreciated as finding on preliminary issue is not set-aside by Hon'ble High Court. Rather liberty is given to challenge finding on preliminary issue alongwith other issues in the matter. The fact that pay orders were missing was not in dispute during course of argument. The mistakes committed while taking entries in account was also not disputed. Learned counsel for workman emphasized that no loss was caused to the Bank. Amount found short was already recovered from the workman. The charge about amount of Rs. 50/- was found less by receiving amount from customer is also supported by evidence. W.r.t. charge that workman was found in drunken condition on duty, learned counsel for workman Shri A.K.Shashi submits that workman was not examined by Medical officer and therefore the charge could not be proved. The burden of proof in criminal case and in domestic enquiry is different. When management's witness working alongwith workman says that workman was attending duties under intoxication, he was misbehaving with the Manager. The details are given in the evidence. Learned counsel for IInd party Shri Shrotri supported the findings of Enquiry Officer and punishment of dismissal of workman. It was submitted that workman was attending duty under intoxication, he was misbehaving with Manager. Such persons could not be taken in service. The evidence of management's witnesses is supported by documents. The management has examined 13 witnesses to prove the charges against workman and also documentary evidence. The Enquiry Officer had discussed entire evidence. I donot find substance in the argument that the finding of Enquiry Officer are not supported by evidence.

16. Learned counsel for workman Shri A.K.Shashi relies on ratio held in

Case of State of Uttaranchal and others versus Kharak Singh reported in 2008(2) supreme Court Cases (L&S) 698. Their lordship dealing with natural justice, the departmental enquiry held, enquiry should not be empty formality. The witness should not be the enquiry officer. Departmental evidence should be led in the first instance and in presence of charged employee.

The ratio cannot be applied to present case as finding of preliminary issue is not set-aside by Hon'ble High Court.

Next reliance is placed in ratio held in case of InduBhushan Dwivedi and State of Jharkhand and another reported in 2010-SCLJ-416. Their Lordship of the Apex court dealing with principles of natural justice held no one can be condemned unheard. Order cannot be passed by a public authority without affording him reasonable opportunity to defend himself.

As the order on preliminary issue is not set aside by Hon'ble High Court, the ratio cannot be applied to present case. Rather the facts of present case are not comparable to the case at hand.

For reasons discussed above, I record my finding in Point No.1 in Affirmative.

17. Point No.2- in view of my finding in Point No.1, charges against workman are proved from evidence in Enquiry proceedings, question arises about quantum of punishment imposed on workman. Learned counsel for Ist party workman Shri A.K.Shashi submits that the charge covers from 1986 to 1991. Any loss was not suffered by bank, the charges were not of serious nature to warrant punishment of dismissal. That the workman was young at the time of alleged incident and he should be branded as criminal for such instance. Learned counsel for IInd party Shri Shrotri submits that proved charges against workman relates to taking wrong entries while preparing ledger, inflicted amount was immediately withdrawn by workman shows his motive. Workman was attending duty in drunkenness condition, he was misbehaving with his superiors. The proved charges relates to loss of pay order, taking wrong entries in account books, remaining unauthorisely absent, leaving office early, attending office late. Punishment of dismissal for such proved charges is proper. Learned counsel for workman Shri A.K. Shashi in support of his argument relied on ratio held in Case of Commissioner of Police and others versus Sandeep Kumar reported in 2011(4) SCC 644. Their Lordship dealing with service law, right to appointment, condonation of minor indiscretions of youth held young people after committed in indiscretions and approach should be to condone such indiscretions rather than branding them as criminals for rest of their lives. The facts of case before their Lordship show that Sandeep Kumar applied for post of Head constable in 1999. In the application form it was printed about arrest, prosecution etc. was answered in negative. However it was found that Sandeep Kumar was arrested for offence under Section 325/34 of IPC which was compromised on 18-1-98. The respondent and his family members were acquitted.

The facts of present case are not comparable. Workman was working as relieving cashier. The proved charges are that pay orders were lost during his duty period. Submitting immediately report to the Branch Manager doesnot relieve him from his responsibility. The negligence shown in duty by workman resulting loss of pay order is certainly of serious nature. Proved charges against workman shows that while he was preparing new ledger, amount was inflicted immediately he withdrawn amount of Rs. 1100/- shows his malafide. The stamps were found short while he was dealing with the work. Workman was attending duties in drunkenness condition. Multiple charge of serious nature against workman are supported by evidence of management witness.

18. Learned counsel for workman Shri A.K.Shashi in support of his argument relies on Unreported judgment in Writ Petition No. 3224 of 2004 in case of Shri Premnath Singh versus WCL by High Court at Bombay, Nagpur Bench. In para-5 their Lordship observed it is necessary to know that the petitioner was charged for dispatching 53.690 metric tones of coal in excess, it was found by the enquiry officer that only 2.85 metric tones of coal was issued in excess. It is however necessary to note that no reasons are recorded by the enquiry officer for arriving at this finding. The enquiry report also doesnot state that the petitioner had intentionally or willfully neglected his work. The acts of misconduct allegedly committed by the petitioner fell under clause 26.2 and 26.5 of Standing Orders.

The facts of present case are not comparable as discussed above as all six charges against workman are supported by evidence of management's witnesses. The facts are not comparable. Therefore the judgment relied by learned counsel for workman cannot be beneficially relied in present case.

19. Considering the facts, the charges proved against workman are of serious nature, the amount inflicted in account of Chargesheeted employee was immediately withdrawn by him, pay orders were lost, the accounts were not properly maintained. Workman was coming to duty under intoxication. The dismissal of workman cannot be said improper. For above reasons, I record my finding in Point No.2.

20. In the result, award is passed as under:-

- (1) The action of the management of Bank of Maharashtra, Jabalpur in terminating the services of Shri R.K.Gupta, clerk cum cashier from 19-2-96 is proper and legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3024.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 26/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/34/2012-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3024.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/34/2012-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Wednesday, the 5th November, 2014

Present : K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 26/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of Indian Bank and their workman).

BETWEEN :

The Deputy General Secretary : 1st Party/Petitioner
Indian Bank Employees Union Union
No. 6, Moore Street, Mannady
Corner, Chennai-600001

AND

The Assistant General : 2nd Party/
Manager (HRM) Respondent
Indian Bank, 254-260 Avvai
Shanmugham Salai,
Royapettah,
Chennai-600014

Appearance :

For the 1st Party/ : Sri J. Thomas Jayaprabhakaran,
Petitioner Union Authorized Representative

For the 2nd Party/ : M/s. T. S. Gopalan & Co.,
Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12011/34/2012-IR(B.II) dated 07.02.2013 and Corrigendum dated 25.02.2014 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of Indian Bank in denying pensionary benefits to those employees who were declared as deemed to have voluntarily vacated his/her employment is legal and justified? If not, what is the relief the workmen are entitled to?

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 26/2013 and issued notices to both sides. The First Party has appeared through Authorized Representative and the Second Party through the counsel and has filed Claim and Counter Statement respectively. On receipt of the corrigendum, the First Party has filed amended Claim statement and has also filed rejoinder after the counter statement was filed.

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The Petitioner Union has raised the dispute against denial of pension to employees whose names were struck off from the rolls of the establishment and deemed to have voluntarily vacated their appointment. As per Clause-33 of the Bipartite Settlement dated 02.06.2005 the name of an employee shall be struck off from the rolls of the establishment and the employee will be deemed to have voluntarily vacated his employment, if he absents himself from work for a period of 90 or more consecutive days without prior sanction and fails to report for work in spite of a notice asking to report for duty within 30 days and a further notice asking to report for work, on serving a final notice. As per Paragraph-22 of the Pension Regulations, only resignation, dismissal, removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and disqualify him for pensionary benefits. Voluntary vacation from employment shall not entail forfeiture of past service and render one unqualified for pension benefits unlike in the case of resignation, dismissal, removal or termination. Even those who were given compulsory retirement from service as a penalty on finding guilty of gross misconduct is entitled to pension at a rate not less than 2/3rd and not more than full pension admissible as on the date of compulsory retirement. As per Para-368 of Sastry Award there shall be no forfeiture of any amount due to a workman except in cases where he is dismissed for misconduct causing financial loss to the

employer and that also limited to the extent of financial loss only. However, the request for payment of pension by those employees who were declared to have voluntarily vacated appointment was turned down by the Respondent on the ground that there is no provision in Pension Regulations enabling such employees to qualify for pensionary benefits. Nowhere in the Pension Regulations it is provided that forfeiture of service should be inflicted on the employees who are made to leave the service of the Bank in terms of Clause-33 of the Bipartite Settlement i.e. leaving the service and vacating the employment. An order may be passed holding that the action of the Respondent in denying pensionary benefits to employees whose names were struck off from the rolls of the establishment and deemed to have voluntarily vacated their employment is illegal and unjustified and directing the Respondent to extend pensionary benefit to all such employees.

4. The Respondent has filed Counter Statement contending as follows:

Regulation-22 of Indian Bank Employees Pension Regulations provides that in the case of resignation, dismissal or removal or termination of an employee from the service of the Bank, the employee shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits. Cessation of employment is brought about at the instance of the workman and it is considered as deemed resignation or even worse than resignation. In case of resignation, the employee conveys his intention to leave the service by means of communication and the management communicates its acceptance. In the case of cessation of employment the workman deliberately chooses to vacate employment without a formal communication. Such cessation cannot be placed on a footing different from resignation. The Pension Regulations do not envisage that the employees who had abandoned their services should be considered for payment of pension. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the contention in the Counter Statement and reiterating the case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and documents marked as Ext.W1 to Ext.W13. No oral or documentary evidence was adduced on the side of the Respondent.

7. The points for consideration are:

- (i) Whether the action of the Respondent in denying pensionary benefits to the employees who are declared as deemed to have vacated employment. Are legal and justified?
- (ii) What is the relief, if any, the concerned workmen are entitled?

The Points

8. The Petitioner Union has raised the dispute on behalf of those persons who are deemed to have voluntarily vacated the employment in the Respondent Bank. According to the petitioner, there is no specific provision in the Pension regulations which states that persons who have voluntary vacated their service are not entitled to pension. According to the Union, as per the Pension Regulations service will be forfeited disqualifying a person for pensionary benefits only in the case of resignation, dismissal, removal or termination of employee from service as seen from Clause-22 of the Pension Regulations. On the other hand, pension is allowed to a limited extent even for those who were given the punishment of Compulsory Retirement from service on finding guilty of gross misconduct, as per Clause-33 of Pension Regulations. The contention that is raised by the petitioner is that in the absence of such forfeiture clause the persons who are deemed to have vacated their service from the Bank are also entitled to pension.

9. The claim of the petitioner has been resisted by the Respondent. According to the Respondent there is no provision in the Pension Regulations providing for payment of pension to those persons who have vacated their employment and who are deemed to have voluntarily vacated their appointment. According to the Respondent such voluntary vacation of appointment is to be equated with resignation in which case also there will be forfeiture of service making it a disqualification for pensionary benefits.

10. The question is whether the persons who have abandoned the service and therefore were deemed to have vacated their appointment have accrued the right for pension, whether they are entitled to pension as per the Regulations. Clause-33 of 8th Bipartite Settlement (Ext.W12) which states under what circumstances there will be voluntary cessation of employment runs as follows:

“33 (i) When an employee absents himself from work for a period of 90 or more consecutive days without prior sanction from the competent authority or beyond the period of leave sanctioned originally including any extension thereof or when there is satisfactory evidence that he has taken up employment in India or outside the Management at any time thereafter may give a notice to the employee at his last known address as recorded with the Bank calling upon him to report for work within 30 days of the notice. Unless the employee reports for work within 30 days of the notice or gives an explanation for his absence within the period of 30 days satisfying the management inter-alia that he has not taken up another employment or avocation, the employee shall be given a further notice to report

for work within 30 days of the notice failing which the employee will be deemed to have voluntarily vacated his employment on the expiry of the said notice and advised accordingly by Registered Post”.

11. The persons who are claiming pension as per the dispute are those who were deemed to have voluntarily vacated employment as per Clause-33-(i). The argument on behalf of the petitioner is that when the pension regulations are construed it could be seen that such persons are also entitled to pension. The counsel has referred to clauses 28, 29, 30, 31 and 32 of the Pension Regulations and pointed out that almost all classes of the employees are eligible for pension. According to him there is no justification in denying pension to those who vacated the service Only, in the above background. The only class of persons who are not eligible for pension is as per Clause-22 of the Pension regulations which states that resignation or dismissal or removal or termination of an employee from the service of the Bank shall entail forfeiture of his entire past service and consequently shall not qualify for pensionary benefits, it is argued. According to the Authorized Representative of the petitioner vacating the employment as per Clause-33 of the Bipartite Settlement is not a ground for forfeiture of service as per Clause-22 of the Pension Regulations and therefore the said class of persons who have vacated appointment are also eligible for pension. However, even on going through Sub-Clause-2 of Clause-22 it could be seen that even interruption in the service of the bank employee entails forfeiture of his past service if it is not coming within the exceptions given. Declaration to be deemed to have vacated appointment is consequent to unauthorized absence followed by a notice and refusal to comply with the direction in the notice to give explanation or to comply with the direction to join duty.

12. Even otherwise the argument of the Authorized Representative does not seem acceptable. Chapter-V of pension Regulations refer to the classes of pension. It specifically states who all are eligible for pension. Clause-28 refers to superannuation pension to which the employee becomes eligible in the normal course on superannuation. Clause-29 of this rule refers to pension on voluntary retirement. Clause-30 is regarding invalid pension to which a person becomes eligible if he has to retire from service prior to superannuation on account of his bodily or mental infirmity. Clause-32 refers to premature retirement pension to which one becomes eligible on account of the orders of the Bank to retire prematurely. Clause-33 refers to Compulsory Retirement Pension to which an employee becomes eligible on compulsory retirement from service as a penalty. Thus it could be seen that all class of persons who are eligible for pension are specifically classified in Chapter-V of the Bipartite Settlement. The argument of the Authorized

Representative that since persons who have vacated appointment are not mentioned in the forfeiture clause i.e. Clause-22 of the Regulations, they are eligible for pension could not be accepted. If actually it was intended that such class of persons are also eligible for pension, it would have been specifically stated in Chapter-V of the regulations.

13. It has been argued by the Counsel for the Respondent that the persons who have vacated their appointments stand in a footing worse than those who have resigned from service and so they would not be eligible for pension at all. In fact this argument has force. Resignation from service is made by the employee with information to the Bank. On the other hand in case of persons who have vacated their appointment, they have abandoned the service without any intimation to the Bank and the Bank is left in the lurch without any information as to whether the employee intends to continue in service or has already decided to put an end to the service. It has been admitted by WW1 during his cross-examination that cessation of employment under Clause-33 of the Bipartite Settlement is in fact abandonment from service itself. So in any case a person who has vacated the appointment could not be in a better position than the one who has resigned from service.

14. Clause-22 of the Pension Regulations includes those who had resigned, have been dismissed, removed or terminated from service as persons who entail forfeiture of his past service. Clause-31 of the Pension Regulations provides some relief even to those who were dismissed, removed or terminated from service. This clause states that if such dismissal, removal or termination is deserving of special consideration, sanction of compassionate allowance not exceeding 2/3rd of the pension that would have been admissible could be given. However, even in this clause for compassionate allowance the persons who have resigned are not included. If that is the case the provision for payment of pension to those who have abandoned service could not be read in Chapter-V of Pension Regulations. Pension Regulations is statutory in nature. When the statute itself does not provide for a particular thing, the same could not be read in it by an interpretation of the provisions.

15. The Authorized Representative of the Petitioner has referred to two different decisions of the Apex Court and two of the Andhra Pradesh High Court to advance his case that persons who have vacated the appointment also are entitled to pensionary benefits. The decision of STATE OF JHARKHAND AND OTHERS VS. JITENDRA KUMAR SRIVASTAVA in Civil Appeal No. 6770/2013 dated 14.09.2013 was relied upon by him to advance his argument that the pension is not a bounty. The Hon'ble Apex Court has held in this that the antiquated notion of pension

being a bounty, a gratuitous payment depending upon the sweet will or grace of the employer and not claimable as a right and no right to pension can be enforced through Court has been swept under the carpet by the decision of the Constitution Bench in DEOKI NANDAN PRASAD VS. STATE OF BIHAR 1971 SCR 634 wherein it was authoritatively ruled that the pension is a right and the payment of it does not depend upon the discretion of the Govt., but is governed by the rules and those coming within those rules is entitled to claim pension. The above observation regarding pension is the settled position of law and there cannot be any quarrel regarding the same. However, in the above decision, the pension was deprived in a different circumstance. It was a case where part of the pension was withheld pending departmental proceedings. Supreme Court has observed that there is no provision in the concerned Pension Regulations for withholding the pension when departmental proceedings or judicial proceedings are pending against the person. It could be seen from the decision of the Apex Court that the right for pension is one that is approved by the employee accrues. So unless he accrues the right he will not be entitled to pension as per the Regulations.

16. The Authorized Representative has also relied upon the decision in BANK OF BARODA VS. S.K. KAULAND ANOTHER reported in Civil Appeal No. 10956/2013. It was a case where a person who was given the punishment of “removal from service with superannuation benefits as would be due otherwise and without disqualification from future employment” was denied pension by Bank of Baroda. The Supreme Court has found that the heirs of the concerned employee are entitled to superannuation benefits. In the above case, the very punishment provided that superannuation benefits is payable on removal from service. In spite of that the same was denied by Bank of Baroda. There is no parity in the facts of the above case and the present one.

17. The Authorized Representative has also referred to the decision of Andhra Pradesh High Court in ANDHRA BANK VS MANAGING DIRECTOR AND OTHERS. In the above case the employee suffered punishment of Compulsory Retirement. However, pension was denied to him. The employee has claimed that he is entitled to pension at not less than 2/3rd and not more than full pension. The Andhra Bank has contended that the employee having been given the punishment of Compulsory Retirement, he is not entitled to pension. As per the Pension Regulations of the Andhra Bank, Pension was payable to persons who retired from service within a particular period. The Bank has contended that those who were given Compulsory Retirement were not included in the Pension Scheme. The High Court has held that the word “retire” is a generic term and therefore this term in

the Pension Scheme should include all categories of retirees including those who were made to retire compulsorily. The finding of the single judge of Andhra Pradesh High Court was upheld by the Division Bench also. Even the above decision is not of any help to the petitioner. In the above case, the High Court had refused to differentiate Compulsory Retirement stating that it is to be given the same status as in the case of other retirements so far as the entitlement of pension is concerned. The only difference between Compulsory retirement and retirement on superannuation is that a person is made to retire from service at an early date against his option because of some misconduct on his part. It is because the misconduct of which he is found guilty is not grave that he is not given the graver punishments such as dismissal or removal from service, etc. The very wording Compulsory Retirement would show that what is intended is that in spite of his being asked to discontinue from service, he is to be given the benefit that will be due to him on retirement.

18. None of the above decisions relied upon by the Authorized Representative support the case that persons who have vacated their appointment by abandonment of service are eligible for pension. I find that the concerned workmen are not entitled to any relief.

19. In view of my discussion above the reference is answered against the petitioner.

An award is passed accordingly.

K.P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1st Party/ : WW1, Sri J. Suresh
Petitioner Union

For the 2nd Party/ : None
Management

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	05.04.2011	ID raised by the Petitioner Union
Ex.W2	30.01.2012	Counter reply to the above ID
Ex.W3	11.02.2012	Rejoinder to the counter party
Ex.W4	13.02.1996	Letter from HO/HRM to Mr. Sundara
Ex.W5	03.02.1996	Letter from HO/HRM to Mr. Sundara informing the voluntary cessation of service
Ex.W6	21.06.1996	Letter from HO/HRM Deptt. To Mr. Sundara denying pension to him

Ex.W7	21.06.2008	Letter from HO/HRM Deptt. To Mr. Sundara denying pension to him
Ex.W8	10.04.1989	Memorandum of settlement (5 th Bipartite Settlement – relevant pages only)
Ex.W9	29.10.1993	Memorandum of settlement for introduction of pension in bank (relevant pages only)
Ex.W10	23.11.1995	CO/Personnel Department Cir.No. 123/95-96 dated 23.11.1995
Ex.W11	27.03.2000	Memorandum of settlement (7 th Bipartite Settlement – relevant pages only)
Ex.W12	02.06.2005	Memorandum of settlement (8 th Bipartite Settlement – relevant pages only)
Ex.W13	23.11.1995	Co: Personnel Deptt. Circ.No. 123/1995-96 dated 23.11.1995

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3025.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स यूनाईटेड बैंक इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, दिल्ली के पंचाट (संदर्भ संख्या 65/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-39025/01/2010-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3025.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Delhi as shown in the Annexure, in the industrial dispute between the management of M/s. United Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-39025/01/2010-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE DR.R.K.YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX,
DELHI.**

I.D. No.65/2013

Shri Vishnu Rana
S/o Sh.Amar Singh Rana,
R/o B-150, Street No.9,
Village Gokalpur,
Delhi-110094

...Workman

Versus

1. The Manager,
Pro-interactive Service Pvt. Ltd.,
31-32 Begampur Park, Shivalik,
Malaviya Nagar, New Delhi - 110017.

2. M/s United Bank of India
Barakhamba Road, Canaught Place,
New Delhi

...Management

AWARD

An Automated Teller Machine operator was appointed by Pro-Interactive Services India Pvt. Ltd.(hereinafter referred to as the contractor) on 08.02.2011 at a monthly salary of Rs.5500.00, besides conveyance allowance. The ATM operator, namely Shri Vishnu Rana, was deputed to work in East Delhi District, Delhi, where he was supposed to attend to complaints relating to the ATMs installed in that area by United Bank of India(hereinafter referred to as the principal employer). From September to December 2011, some of the customers could not withdraw their desired money from the ATMs, but the amounts were deducted from their respective accounts. A sum of Rs.82,200.00, deducted from accounts of various customers but could not be withdrawn from ATM in the period referred above, was embezzled by the ATM Operator, in connivance with his colleague, namely, Shri Jitender Samania. The ATM operator did not submit JP Log report, wherein details of entire transactions were to be displayed, with a view to conceal his misdeeds. When facts were enquired from him, he confessed his guilt. Subsequently he absconded from his duties. A report at Police Station Mukherjee Nagar was lodged against him and his associate. After a long gap of time, the ATM operator raised a dispute before the Conciliation Officer, claiming that the contractor had terminated his serves in an illegal manner. Since the contractor contested the claim, no settlement could arrive at between the parties during the course of conciliation proceedings. When a period of 45 days elapsed from the date of moving an application before the Conciliation Officer, Shri Vishnu Rana filed a direct dispute before this Tribunal under the provisions of sub-section (2) of section 2A of the Industrial Disputes Act, 1947(in short

the Act). Since the dispute raised by Shri Vishnu was within the period of limitation, as contemplated by sub-section (3) of section 2A of the Act, it was registered as an industrial dispute, without being referred for adjudication by the appropriate Government under sub section (1) of section 10 of the Act.

2. Claim statement was filed by Shri Vishnu Rana pleading therein that he was appointed as ATM operator by the contractor on 08.02.2011 on a monthly salary of Rs.5500.00. He was supposed to attend to complaints relating to ATMs, installed by the principal employer in East Delhi District, Delhi. Contractor had not paid his salary for the months of December 2011 and January 2012. His conveyance allowance was also not paid. When he raised a demand in that regard, his services were terminated in an illegal manner. He lodged a complaint against the contractor with the labour authorities. The contractor tried to implicate him in a case of cheating. He presents that action of the contractor in terminating his services is illegal and uncalled for. He claims reinstatement in service with continuity and full back wages.

3. Claim was demurred by the contractor pleading that the claimant misappropriated a sum of Rs.82,200.00, which amount was taken out by him, in connivance with Shri Jitender Samania, from various ATMs, when customers could not withdraw the amount, which was deducted from their respective accounts. With a view to conceal his acts, he did not submit JP Log report, giving details of entire transactions of cash received by him from the vault for loading it into the ATMs. He was questioned as to why JP Log report was not submitted and at that juncture, he confessed his guilt. Letter dated 03.01.2012 was served upon him. Thereafter, the claimant absconded. A complaint was lodged against him at PS Mukherjee Nagar on 16.02.2012. Since the claimant was engaged on contractual basis and he himself abandoned his job, there was no occasion for the contractor to terminate his services. His claim for reinstatement in service with continuity and full back wages is not maintainable, pleads the contractor.

4. The principal employer pleads that the bank entered into an agreement with Financial Software System Pvt. Ltd to provide service for supply, installation and management of 500 ATMs. There was no privity of contract between the claimant and the principal employer. He was a stranger to the bank. He has no claim for reinstatement in service with continuity and full back wages against it, pleads the bank.

5. On perusal of pleadings, following issues were settled:

- (i) Whether the claimant abandoned services of Pro-Interactive Services Pvt. Ltd. with effect from 10.01.2012? If yes, its effects.

- (ii) Whether the claimant is entitled to reinstatement in service of Pro- Interactive Services Pvt. Ltd.?

6. During the course of adjudication, parties arrived at a settlement. Claimant made a statement on oath, contents of which are reproduced below:

'I have settled my grievances with M/s Pro-Interactive Services Ltd. for a sum of Rs.23,000.00, paid to me before this Tribunal. Nothing remains due to me from my aforesaid employer towards wages, notice pay, retrenchment compensation, leave encashment, bonus, gratuity etc. My dispute stands subsided and it may be answered accordingly. I give up my claim for reinstatement in service of M/s Pro Interactive Services Ltd. My dispute may be answered accordingly.'

7. As deposed on oath by the claimant, he received a sum of Rs.23,500.00 from the contractor before the Tribunal towards his dues for wages, notice pay, retrenchment compensation, leave encashment, bonus and gratuity etc. He had given up his claim for reinstatement in service of the contractor. Thus, it is evident that the claimant has settled his grievances and received a sum of Rs.23,000.00 as full and final settlement of his claims against his employer, the contractor. In view of these facts, the issues settled above, became redundant. Since the dispute has been settled, the claimant is not entitled to relief of reinstatement with continuity and full back wages in the service of the contractor. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 30.09.2013

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3026.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 95/01) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/134/99-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3026.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India and

their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/134/99-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/95/01

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ajay Kumar Barber,
Dainik Vetan Bhogi Bank Karmachari Sangathan,
9, Sanver Road, Hardev Nivas,
Ujjain ...Workman

Versus

Managing Director,
Bank of India, Express Tower,
Nariman Point,
Mumbai ...Management

AWARD

Passed on this 16th day of October, 2014

1. As per letter dated 22-5-01 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/134/99-B-II . The dispute under reference relates to:

“Whether the action of the management of Bank of India in terminating the services of Shri Ajay Kumar Barber from the services of Bank is justified? If not, what relief he is entitled?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 3/1 to 3/5. Case of workman is that he was engaged on daily wages from 1-3-96 by Bank and he was working as peon. That Union is registered under Trade Union Act 1946 having Registration No. 5244. Workman was paid monthly salary excluding holidays. He was paid bonus for 96-97, 97-98. He completed 240 days continuous service. His services were terminated on 7-12-98 without notice. He was not paid retrenchment compensation. That termination of his service is in violation of Section 25 N, G of I.D.Act. On such ground, workman prays for his reinstatement with back wages.

3. IInd party submitted Written Statement at Page 5/1 to 5/11. IInd party submits that reference made by Central Govt. is illegal. Workman was not appointed as Bank employee. His services are not terminated by the Bank. ALC had submitted failure report. Govt. considering that no documents were produced refused to make reference.

The reference is not made by Govt. as per directions issued in Writ Petition. IInd party further submits that workman was never appointed or recorded. He has no locus to dispute. Workman was engaged as casual labour on daily wages in leave vacancies. The dispute does not exist. IInd party has denied all adverse contentions of workman about working for more than 240 days. Termination of his service in violation of Section 25-F, G of I.D.Act. It is specifically denied that workman completed 240 days. That provisions of Section 25 N of I.D.Act are not applicable in the matter.

4. It is submitted that in Writ Petition 229/00 challenging order passed by Labour Ministry no ground was raised for reference of dispute. It is reiterated that the dispute is illegal. Govt. has exceeded its jurisdiction for deciding the dispute. Employer employee relationship does not exist. On such ground, IInd party prays for rejection of claim.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the action of the management of Bank of India in terminating the services of Shri Ajay Kumar Barber from the services of Bank is justified? | Termination of service of workman by IInd party Bank is not established. |
| (ii) If not, what relief the workman is entitled to?” | Workman is not entitled to any relief. |

REASONS

6. Though workman has raised dispute challenging legality of termination of his service in violation of Section 25-F,G of I.D.Act. that he had completed more than 240 days continuous service, that his services were terminated during pendency of conciliation proceeding before ALC, Bhopal. All those material contentions of workman are denied by IInd party. IInd party raised objection that reference is illegal. However IInd party has not challenged order of reference therefore contentions in that regard cannot be accepted. The order of reference is binding in this Tribunal. Workman has not adduced evidence in support of his claim. As per ordersheet dated 25-9-08 application No.14 filed by IInd party was rejected observing that the burden of proof lies on workman. Ordersheet dated 13-10-10 shows last chance was given to workman but workman was absent. Counsel for workman submitted that he had no communication with workman as such unable to submit evidence. Evidence of workman was closed.

7. Management filed affidavit of witness Shri Kalu Hasan Shah supporting contentions of IInd party in

Written Statement with respect to production of documents. Evidence of management was closed on 29-5-13. As such no evidence is adduced by both parties in support of their contentions. In absence of evidence, I record my finding in Point No.1 that employer employee relationship and termination of services of workman by IInd party is not established.

8. **Point No.2**—in view of my finding in Point No.1, termination of services of workman by IInd party is not established. Learned counsel for workman Shri Gahlod submitted bunch of citations AIR 1972-SC-1352, 1981-Lab. I.C.1110, AIR 2007-SC-288, Section 106 of Evidence Act, 1969 MPLJ-271 (SC), 1997(I)MPWN167, 1996(I)MPWN 27, AIR 1975-SC-667. When no evidence is adduced by workman, ratio held in all those cannot be applied to present case. For the same reasons ratio relied by counsel for management in case of Surendranagar District Panchayat versus Dahyabhai Amarsingh cannot be applied. As workman failed to participate and adduce evidence in support of his claim, I record my finding in Point No.2 tht workman is not entitled to any relief.

9. In the result, award is passed as under:-

- (1) The action of the management of Bank of India in terminating the services of Shri Ajay Kumar Barber from the services of Bank is legal.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार छिदवाडा सिवोनी क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबंध में उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 222/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/54/96-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3027.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 222/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Chhindwara Seoni Kshetriya Gramin Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/54/96-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/227/97

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ramcharan Adewar,
S/o Shri Dashrth Adewar,
Ex. Peon of Chhindwara Seoni K.G. Bank,
Village Sanwari, Tahsil Saunsar,
Post Deori,
Vikas Khand Bichua,
Distt. Chhindwara (MP) ...Workman

Versus

Chairman,
Chhindwara Seoni Kshetriya
Gramin Bank, Civil Lines,
Chhindwara ...Management

AWARD

Passed on this 28th day of October, 2014

1. As per letter dated 30-7-97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/54/96-IR(B). The dispute under reference relates to:

“Whether the action of the Chairman, Chhindwara Seoni Kshetriya Gramin Bank, Chhindwara MP in stopping from duty Shri Ramcharan Adewar at Khamarpani Branch of Chhindwara Seoni Kshetriya Gramin Bank w.e.f. March 91 is justified and legal? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at page 6/1 to 6/5. Case of Ist party workman is that he was initially appointed by IInd party on 2-8-89 as peon/messenger. After his appointment, he was working in the branch to satisfaction of his superior till 28-3-91. As such he was working for about 500 days with IInd party. He was paid wages Rs.8/- per day. He was continuously working with IInd party without any break which is covered as employee under Section 25 B of I.D.Act. workman was doing work of cleaning office premises, fetching water and distributing the same to staff, distributing draft, collecting stationery etc. That he completed 240 days continuous service within 12 consecutive months. He was not paid retrenchment compensation. Retrenchment of his service is in violation of Section 25-G, H of I.D. Act. His termination from service is illegal. On such ground, workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at page 8/1 to 8/4. IInd party submits that workman was engaged purely on part time basis for cleaning branch premises from 24-8-89. He worked for 22 days in 1989, 43 days in 1990, 23 days in 1991. Workman had not completed 240 days continuous service. He worked only for 88 days during 1989 to 1991. Workman Shri Azab Rao, Tulsi Ram, Raghu, Mohan Kumar, Srichand, Shaligram, Devilal and Bhagchand were also working on different occasions. Engagement of workman was as per need of maintenance and cleaning work. He had not completed 240 days continuous service. Compliance of Section 25-F was not necessary. Workman was not terminated. On such ground, IInd party prayed for rejection of claim.

4. Workman filed rejoinder at page 9/1 to 9/6 reiterating his contentions in statement of claim that he was continuously working for more than 240 days and his services were terminated without notice. Retrenchment compensation was not paid to him. His retrenchment is in violation of Section 25-F of I.D.Act.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--------------------|
| (i) Whether the action of the Chairman, Chhindwara Seoni Kshetriya Gramin Bank, Chhindwara MP in stopping from duty Shri Ramcharan Adewar at Khamarpani Branch of Chhindwara Seoni Kshetriya Gramin Bank w.e.f. March 91 is justified and legal | In negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

6. Ist party is challenging his retrenchment for violation of Section 25-F, G, H of I.D.Act. He filed affidavit of his evidence supporting his contentions in statement of claim. That he was working continuously as peon/messenger from 2-8-89 till 28-3-91 for 500 days. He was working from 10.30AM to 5 PM. He was paid salary under vouchers. He was discontinued from 30-3-91 by IInd party. He was not issued notice. Retrenchment compensation was not paid to him. Other persons Shri Azab Rao, Tulsi Ram, Raghu, Mohan Kumar, Srichand, Shaligram, Devilal and Bhagchand were also engaged by Bank after his discontinuation. In his cross-examination, workman says he was engaged on daily wages, appointment letter was not given to him. His name was called from Employment Exchange. He was working from 2-8-89 to 30-3-90 excluding holidays. That 29-3-91 was Sunday. On 30-3-91, he was stopped from working. He was paid daily wages. Sometimes he was paid wages weekly or monthly. Copy of vouchers was

not given to him. He raised dispute before ALC, Chhindwara. He was doing work of filing water and other miscellaneous work in office. He was depositing amount of electric bills. Said fact is not completed in his statement of claim. He denies that he worked only 22 days in 1989, 43 days in 1990, 23 days in 1991. Shri Shri Azab Rao, Tulsi Ram, Raghu, Mohan Kumar, Srichand, Shaligram, Devilal and Bhagchand were working on daily wages during his working period. They were engaged after his discontinuation. He denies that he not completed 240 days continuous working.

7. Management filed affidavit of witness Shri Govind supporting contentions in Written Statement of IInd party. However witness of management was not produced for cross-examination. Note is taken that evidence of management witness shall not be considered. Thus contentions of management are not supported by evidence. In cross-examination, workman is working in bank is confirmed. IInd party Bank has not produced documents that workman was working for 22 days in 1989, 43 days in 1990, 23 days in 1991. His services are terminated without notice. No retrenchment compensation is paid to him. Termination of workman is in violation of Section 25-F of I.D.Act. For above reasons, I record my finding in Point No.1 in Negative.

8. **Point No.2**—in view of my finding in point No.1 that termination of services of workman is in violation of Section 25-F of I.D.Act, question arises whether workman is entitled for reinstatement with back wages. The evidence of workman is clear that he was engaged on daily wages. He was not selected following recruitment process. Therefore reinstatement of workman would not be justified. Workman was working with IInd party on daily wages from 2-8-89 to 28-3-91 for about 1 ½ years. The services are terminated without notice therefore reasonable compensation would be appropriate relief. In my considered view, compensation Rs. 40,000/- would be reasonable considering the wages were paid to workman @ Rs.8/- per day. Accordingly I record my finding in Point No.2.

9. In the result, award is passed as under-

- (1) The action of the Chairman, Chhindwara Seoni Kshetriya Gramin Bank, Chhindwara MP in stopping from duty Shri Ramcharan Adewar at Khamarpani Branch of Chhindwara Seoni Kshetriya Gramin Bank w.e.f. March 91 is not legal and proper.
- (2) IInd party is directed to pay compensation Rs. 40,000/- to workman within 30 days from date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3028.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 11/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/378/95-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 11/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/378/95-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/11/97

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Ganesh Kumar Bain,
Qr.No.1182, Lohar Mohalla,
Modi Baada, Sadar Bazar,
Jabalpur

...Workman

Versus

The Regional Manager,
Allahabad Bank, Regional Office,
PO No.1, Residency Road,
Civil Line, Jabalpur

...Management

AWARD

Passed on this 31st day of October, 2014

1. As per letter dated 31-12-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/378/95-IR(B-2). The dispute under reference relates to:

“ Whether the action of the management of Allahabad Bank Jabalpur in terminating the

services of Shri Ganesh Kumar Bain Ex peon cum Farah w.e.f. 11-5-91 is legal and justified? If not, to what relief is the said workman entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 3/1 to 3/3. Case of Ist party is that he was appointed as peon/farrash with Allahabad Bank in 1983. He continued to work as peon/farrash till 11-5-91. That he was served with chargesheet on 2-7-90 alleging misconduct that Bank authority waiting for his reply to chargesheet immediately ordered enquiry of charges against him. He further submits that Disciplinary Authority assured workman if he admits charges against him, management impose minor penalties. Because of such assurance by Disciplinary Authorities, workman admitted charges. It is submitted that Disciplinary Authority instead of imposing minor penalty has terminated his services from 11-5-91. Workman submits that principles of natural justice were violated. Management representative was mere spectator. Enquiry Officer acted as prosecutor, he examined workman. Enquiry is violated. Workman was not given proper opportunity for his defence. On such grounds workman prays for his reinstatement with back wages.

3. IInd party filed Written Statement at Page 9/1 to 9/11. IInd party denied claim of workman. IInd party submits that workman Ganesh Kumar Bain was working as peon cum farrash in the Bank. On 6-6-90, workman found withdrawal slip bearing only the signature of the account holder namely Baboli Ram Jaiswal Account No. 2470. Workman persuaded Branch Manager A. K. Vishwakarma and cashier S.A.Qureshi for passing withdrawal of Rs. 3500/-. Chargesheet was issued to workman and Branch Manager and cashier. Enquiry was conducted against workman giving him opportunity for his defence. Shri A.K.Vishwakarma Branch Manager confirmed workman deposited amount Rs. 2500/- on 13-6-90. He had further certified that amount would be deposited on 14-6-90. Enquiry Officer submitted his report. Charges were proved and admitted by workman. Considering report submitted by Enquiry officer and unconditional admission of guilt of workman, the punishment was imposed. All adverse contentions of workman have been denied. IInd party referring to ratio held in various cases submits that workman cannot be continued in service. IInd party prays for rejection of claim.

4. Workman submitted rejoinder at page 10/1 to 10/3 reiterating his contentions in statement of claim.

5. Enquiry conducted against workman is found proper and legal as per order dated 17-6-2013. Considering pleadings on record and findings of preliminary issue, the points which arise for my consideration and determination

are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|--|
| (i) Whether the charges alleged against workman are proved from evidence in Enquiry Proceedings? | In Affirmative |
| (ii) Whether the action of the management of Allahabad Bank Jabalpur in terminating the services of Shri Ganesh Kumar Bain Ex peon-cum-Farah w.e.f. 11-5-91 is legal and justified? | In Affirmative |
| (iii) If so, to what relief the workman is entitled to?" | Workman is not entitled to any relief. |

REASONS

6. As per order dated 17-6-2013, enquiry conducted against workman is found proper and legal, question remains for decision whether charges alleged against workman are proved from evidence in Enquiry Proceedings. Management has produced documents of enquiry at Exhibit M-1 to M-10. Document Exhibit M-2 is charge sheet issued to workman. Charge No.1 against workman relates to fraudulent withdrawal of Rs.3500/- from S.B.Account 2470 of Shri Baboli Ram Jaiswal. Charge No.2 relates to receiving amount of Rs. 200/- by workman from Sushila Bai, Workamn Ganesh for depositing in Bank. Workman received amount for depositing in the Bank but did not deposit in the account. He obtained signature on deposit slip of Account Holder Sushila Bai. M-3 is order of appointing Enquiry Officer. M-4 is appointing Presenting Officer, M-7 is Enquiry Report. In Exhibit M-9, workman has admitted charges against him that he committed mistake. He belong to Sc. He requested why punishment should not be imposed against him for his fraudulent act. He assured not to commit such acts in future. From document Exhibit M-9 by admission of workman, the charges are proved against him. For above reasons, I record my finding in Point No.1 in Affirmative.

7. **Point No.2**—Workman has not adduced evidence on other issues. Considering proved charges of fraudulent acts, workman withdrawing amount from account of Smt. Sushila Bai and receiving amount from account holder for depositing in her account. The amount was not deposited. The above acts are of serious nature. Workman has not participated in reference proceeding and not adduced evidence on other issues. The punishment imposed against workman cannot be said disproportionate or illegal. For above reasons, I record my finding in Point No.1 in Affirmative.

8. In the result, award is passed as under :—

- (1) The action of the management of Allahabad Bank Jabalpur in terminating the services of Shri Ganesh Kumar Bain Ex peon-cum-Farah w.e.f. 11-5-91 is proper.
- (2) Workman is not entitled to any relief.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3029.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब एण्ड सिंध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 285/97) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/1/97-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3029.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 285/97) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab and Sind Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/1/97-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/285/97

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Narayan Prasad Pathak,
S/o Ramgopal Pathak,
R/o near Taliya Mandir,
Sherpura, Berasia,
Distt. Bhopal

...Workman

Versus

General Manager,
Punjab and Sind Bank,
Zonal office, E-3/114, Arera Colony,
10 No. Bus stop, Bhopal

...Management

AWARD

Passed on this 29th day of October, 2014

1. As per letter dated 7-8/10/97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/1/97-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Punjab and Sind Bank in terminating the services of Shri Narayan Prasad Pathak S/o Shri Ramgopal Pathak w.e.f. 17-11-95 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Statement of claim is submitted by General Secretary, Daily Wage Bank Employees Union at Page 3/1 to ¾. It doesnot bear signature of the employee Narayan Pandey. The case of Ist party workman is that he was engaged by Branch Manager on daily wages for cleaning work of the branch from 15-1-90. He was paid wages Rs. 15/- per day. He was continuously working till 17-11-95. His services were terminated without notice. He was not paid retrenchment compensation. Workman was working more than 5 years. He was working 8 hours per day. Workman is covered as an employee under Section 25(B) of I.D.Act. he completed more than 240 days continuous service. His services are terminated without paying retrenchment compensation in violation of para 507, 534 of Sastry Award. IInd party has also violated Section 25 G, H, N of IDAct. Principles of first come last go was not followed. On such ground, Ist party prays for reinstatement with backwages.

3. IInd party filed Written Statement at Page 11/1 to 11/6. Preliminary objection is raised by IInd party that statement of claim submitted by Daily Wage Bank Employees Union doesnot show the name of employees on whose behalf the statement of claim is submitted. That said Union is not competent to raise dispute. The reference is not tenable. It is further submitted that the statement of claim relates to the relief claimed for Shri Narayan Pathak. The claim is inconsistent. Said Narayan was not appointed by the Bank. He was engaged as per exigencies. He was paid wags for period of his engagement. It is denied that Narayan Pathak was engaged after his interview. It is denied that he was working from 8 AM and doing sweeping, dusting etc work till the Bank was closed. It is denied that Narayan was working honestly with devotion. The wages for working period were paid to him as Narayan Pathak was not appointed by Bank, there was no question of his termination from service. It is denied that he completed 240 days continuous service. Violation of Section 25-F, G, N of I.D.Act are denied. IInd party prays for rejection of claim.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------|
| (i) Whether the action of the management of Punjab and Sind Bank in terminating the services of Shri Narayan Prasad Pathak S/o Shri Ramgopal Pathak w.e.f. 17-11-95 is legal and justified? | In Negative |
| (ii) If not, what relief the workman is entitled to?” | As per final order. |

REASONS

5. Ist party workman is challenging termination of his service for violation of Section 25-F, G, N of I.D.Act contending that he was continuously working with IInd party from 15-1-90 to 16-11-95 for period of 5 years, 10 months. He was continuously working more than 240 days. IInd party contends that workman was not appointed. There was no question of termination of his service. Workman was engaged on daily wages as per exigencies. Workman filed affidavit of his evidence covering his contentions in statement of claim that he was continuously working from 15-1-90 to 16-11-95. He was working with devotion, he was paid bonus. His services were terminated without notice by oral orders. He filed proceeding No. 42/02 for recovery of gratuity. He was paid gratuity amount Rs. 7150/- as per order passed by Competent authority under Payment of Gratuity Act. From evidence of workman, documents Exhibit W-1 to W-4 are proved. Evidence of workman remained unchallenged. IInd party has failed to cross-examine, said order was called back. Workman was cross-examined. In his cross-examination, workman says appointment letter in writing was not given to him. He has produced certificate about his attendance. He admits he was engaged as per exigencies and wages for working days were paid to him. The documents produced by workman Exhibit W-2 is order passed by Competent Authority under PG Act. The finding is recorded by said authority that the workman worked as daily wage employee with IInd party for 5 years 10 months. Gratuity Rs. 7150/- was allowed. As per Exhibit W-3 said order was challenged in appeal. The claim of Ist party workman for gratuity was confirmed. Exhibit W-4 is copy of DD paid to workman. IInd party did not adduce any evidence. From evidence on record, it is proved that Ist party workman was working with IInd party for 5 years 10 months. His services were terminated without notice, retrenchment compensation was not paid to him. Thus services of workman are terminated in violation of Section 25-F of I.D.Act. Therefore I record my finding in Point No.1 in Negative.

6. **Point No.2**—in view of my finding in Point No.1, services of workman are terminated in violation of Section 25-F of I.D.Act, question arises whether workman is entitled for reinstatement with back wages. Evidence of workman shows he was appointed on daily wages. The evidence on record is silent whether the workman was appointed following selection process. Therefore Ist party cannot be allowed reinstatement.

7. Learned counsel for Ist party submitted written notes of argument emphasizing Ist party workman is terminated in violation of Section 25 of ID Act. Reliance is placed on ratio held in :

“Case of Ashok Kumar versus Oberoi flight services reported in 2010(1) SCC 142. Their Lordship considering workman a loader with respondent found carrying 30 KLM soup spoons illegally in his shoe, admitting guilt in writing and so dismissed from service. Their Lordship held that dismissal of workman without issuing charge sheet or show-cause notice unsustainable and instead of ordering reinstatement directed respondent to pay workman Rs. 60,000 in full and final settlement of claim is not justified. However compensation is inadequate, it was increased to Rs. 2 Lakhs.”

The facts of present case are not comparable. Workman was no appointed by IInd party rather he was engaged on daily wages. In present case workman was appointed following recruitment process, he was engaged on daily wages. However it is established that he was continuously working for 5 years 10 months. Considering the period of working, in my considered view, compensation Rs. 1 Lakh would be appropriate. Accordingly I record my finding in Point No.2

8. In the result, award is passed as under :—

- (1) The action of the management of Punjab and Sind Bank in terminating the services of Shri Narayan Prasad Pathak S/o Shri Ramgopal Pathak w.e.f. 17-11-95 is not proper and legal.
- (2) IInd party is directed to pay compensation Rs. One Lakh to workman within 30 days from the date of publication of award.

In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3030.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार डब्ल्यू.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 123/92)

को प्रकाशित करती है जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/504/1992-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3030.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 123/92) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/504/1992-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/123/92

PRESIDING OFFICER: SHRI R. B. PATLE

Organising Secretary,
Rashtriya Koyla Khadan Mazdoor Sangh,
PO Chandametta,
Distt. Chhindwara ...Workman/Union

Versus

General Manager,
Kanhana Area of WCL,
PO Dungaria,
Distt. Chhindwara (MP) ...Management

AWARD

Passed on this 15th day of October, 2014

1. As per letter dated 9-6-92 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/504/92-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of WCL, Kanhana Area in terminating the services of Shri Anthram S/o Makarsha, DPR Mazdoor of Nandan Mine w.e.f. 8-6-90 is legal and justified? If not, to what relief the workman is entitled?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of claim at page 4/1 to 4/8. Case of Ist party Union is that it is registered under Trade Union Act. It is largest Union. Workman Anantram was appointed as piece rated mazdoor by IInd party on 14-11-84 at mines on 1-1-88, he was

regularized. In December 1989, the workman was confined to bed for his illness. On December 1989, he submitted application for medical leave for 3 days. His application was rejected and workman was informed to attend duties. Because of his serious illness, workman was receiving treatment at his village till 24-2-90. He reported for duty on 24-2-90. He was allowed to join duty. On same day charge sheet was served on him for absence from duty from 8-12-89 to 24-2-90. The misconduct under clause 18 was standing order was alleged on his part. Workman being illiterate and belonging to Tribal was not knowing the process of DE. Reply was not submitted to charge sheet. That management appointed Despande Labour Welfare Officer as Enquiry Officer and H.Rehman as management representative. That without adopting any procedure, enquiry was conducted on 13-4-90. Workman was not allowed chance for his defence. Workman was asked to accept charge assuring of formal punishment, stoppage of one or two increment. Under such assurance workman had admitted charge. Enquiry Officer submitted his report about misconduct alleged. Union submits that charge sheet was vague. The period of absence was not specified in charge sheet. Workman was not supplied documents required by him. Welfare Officer was appointed as Enquiry Officer. The controversy of Rule 72 of the Mines Act is illegal. Enquiry was concluded within 15 months on 13-4-90. Enquiry Officer recorded finding without any reasonable opportunity and workman was assured minor punishment for getting admission of the charge. On such ground, Union submits that enquiry is vitiated. Order of dismissal be set-aside. Workman be reinstated.

3. IInd party filed Written Statement at Page 3/1 to 3/3. It is submitted that workman was employed as temporary DPR/BTL. Workman was in habit of remaining absent without permission. He was issued warnings on 24-2-90. Charge sheet was issued to workman for absence. No reply was given to the charge sheet. Enquiry was conducted following rules. Enquiry Officer submitted findings that charges against workman are proved. Considering report of Enquiry Officer and antedants of workman remaining absent from duty punishment of dismissal was imposed.

4. It is further contented by IInd party that workman Anantram was working at other places. He was earning. There is no question for backwages to him. The dispute is raised belatedly. Claim of workman could not be allowed. If enquiry is found vitiated, management be given permission to lead evidence to prove misconduct.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|----------------------------------|
| (i) Whether the misconduct alleged against workman is proved from evidence in Enquiry Proceedings? | In Affirmative |
| (ii) Whether punishment of termination from service of Anantram by management of IInd party is legal and justified? | In Negative. Punishment is harsh |
| (ii) If not, what relief the workman is entitled to?" | As per final order |

REASONS

6. As stated above, enquiry is found legal as per order dated 17-10-13. The question remains for decision whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings. The documents of Enquiry Proceedings are produced. In Exhibit M-2 workman has admitted that he was not well. He was unable to attend duty. Exhibit M-5 is charge sheet issued to workman. Enquiry Proceedings at Page 6/8 finds clear reference that the charges were explained to workman and he had admitted charges against him. He assured not to commit such mistake in future. The copy of register of leave accounts of workman of year 1985 to 1989 are produced in Enquiry Proceedings. The charges of unauthorised absence from duty are proved from evidence in Enquiry Proceedings. Therefore I record my finding in Point No.1 in Affirmative.

7. **Point No. 2**—chargesheet issued to workman is for absence from duty from 8-10-89 till issuing chargesheet on 24-2-90. The total period comes about 2 ½ months. For said proved charge, the punishment of dismissal of service is imposed. Parties have not adduced evidence on other issues. However considering short period of absence from duties, punishment of dismissal imposed against workman cannot be said proper. Workman has been dismissed for above said unauthorized absence. The dismissal of workman for short period of unauthorised absence doesnot justify dismissal from service. The punishment imposed against workman appears harsh. Learned counsel for IInd party Shri A.K.Shashi at time of argument submitted that workman cannot be allowed retiral benefits. Considering reasons discussed above, punishment of dismissal is illegal. Accordingly I record my finding in Point No.2.

8. In the result, award is passed as under :—

- (1) The action of the management of WCL, Kanhan Area in terminating the services of Shri Anthram S/o Makarsha, DPR Mazdoor of Nandan Mine w.e.f. 8-6-90 is not legal.
- (2) Order of dismissal is set-aside. IInd party is directed to give retiral benefit to the workman.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2014

का.आ. 3031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 07/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2014 को प्राप्त हुआ था।

[सं. एल-22012/182/1999-आईआर (सी-II)]

बी. एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th November, 2014

S.O. 3031.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2001) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kolkata as shown in the Annexure, in the industrial dispute between the management of M/s. Southern Eastern Coalfields Limited and their workmen, received by the Central Government on 19/11/2014.

[No. L-22012/182/1999-IR (C-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 07 of 2001

Parties : Employers in relation to the management of
Dankuni Coal Complex of SECL

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the Management : None

On behalf of the Workmen : None

State : West Bengal Industry : Coal

Dated: 5th November, 2014

AWARD

By Order No.L-22012/182/99-IR(C-II) dated 12.02.2001 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Dankuni Coal Complex of S.E.C.L. in withholding the

regularization of S/Shri Prabir Kumar Indu, Partha Das and Ranjib Dasgupta, operators vide office order No.CIL/DCC/06/59B/(In) dated 9.4.91 is justified? If not, to what relief the concerned workmen are entitled?”

2. When the case was taken up on 29.10.2014, none appeared on behalf of either of the parties. It appears from the record that the union which initiated the reference remained absent since 18.12.2013. No step was also taken by the union to proceed with this reference.

3. Considering the above facts and circumstances, it appears that the union is not at all interested to proceed with the case further. So, no fruitful purpose will be served in keeping the matter pending.

4. Accordingly, the instant reference case is disposed of by passing a “No Dispute Award”.

Kolkata, 5th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2014

का.आ. 3032.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत अर्थ मूवर्स लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या सीआर सं. 49/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/12/2008-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th November, 2014

S.O. 3032.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. C.R. No. 49/2008) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Earth Movers Limited and their workman, which was received by the Central Government on 18/11/2014.

[No.L-42012/12/2008-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIUBNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE

Dated : 7th November, 2014

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

C R No. 49/2008**I Party**

Shri M V Gururaj S/o
Late M Venkataramanachar,
No. 48, 4th Cross,
Kamakshipalya, 2nd Stage,
Bangalore-560 079.

II Party

The General Manager (P),
Bharat Earth Movers Limited,
Bangalore Complex, New Thippasandra,
Bangalore

Appearances :

I Party : Shri S. B. Mukkannappa, Advocate

II Party : Shri N. S. Narasimha Swamy, Advocate

AWARD

1. The Central Government vide order No. L-42012/12/2008-IR(DU) dated 02.06.2008 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the action of the management of Bharat Earth Movers Ltd., Bangalore in terminating the services of their workman Shri M V Gururaj, w.e.f. 02/04/2007, is legal and justified? If not, to what relief the workman is entitled to?”

2. On receipt of the reference and registering it in C R 49/2008 when notices were issued to both the sides, they entered their appearance through their respective advocates and I Party filed his Claim Statement on 28.05.2010 and II Party files its Counter Statement on 08.06.2011.

3. The I Party in his claim statement while admitting that he remained absent for a period of 167 days during the period from January 2005 to December 2005 contending that it was on account of his ill-health and domestic reasons and that though he had sent the leave application on medical grounds the Domestic Enquiry was initiated by issuing charge sheet dated 06.03.2006 and before he could give his reply the Domestic Enquiry was initiated by appointing Sh. S. U. Manjunath, Manager (HR) as Enquiry Officer and the said Enquiry Officer placing him ex-parte hurriedly concluded the enquiry and on 04.10.2006 submitted the enquiry report holding the charges as proved and based on such a report the Disciplinary Authority passed the impugned order of Removal from Service by order dated 02.04.2007 and when he preferred appeal against the said order the Appellate Authority

rejected the same by order dated 12.10.2007, thus he asserting that though he remained absent for 167 days between January to December 2005 the same was being due to his ill-health and domestic reasons and inspite of his application for sanction of leave the charge sheet was issued and on receipt of the enquiry finding the impugned punishment of Removal from Service was imposed.

4. Though there was no specific pleading in the claim statement the fair and proper opportunity being denied in the Domestic Enquiry having regard to the bald allegations that the Enquiry Officer placing him ex-parte hurriedly concluded the enquiry and submitted report a Preliminary Issue was raised as to

“Whether the Domestic Enquiry held against the I Party by the II Party is fair and proper?”

5. After the learned advocate appearing for the II party produced the enquiry file the learned advocate appearing for the I Party going through the same since filed Memo conceding the fairness of Domestic Enquiry and submitted to exhibit the enquiry papers, by consent the enquiry file segregated into 22 heads came to be marked as Ex M-1 to Ex M-22 the detailed description of which is narrated in the annexure and thereafter on the request of the counsel for I Party he was allowed to lead evidence of the I Party on the point of victimization and accordingly he filed the affidavit of I Party and examined him on oath as WW 1 (V) and as the II party counsel submitted that he has no rebuttal evidence the arguments on merits were heard.

6. Since the I Party unequivocally concede having remained absent for a period of 167 days during January 2005 to December 2005 in respect of which he was charge sheeted for unauthorised absence contending that he had sent the leave application for that period on medical grounds and that without considering the same he was charge sheeted and impugned punishment has been imposed it was for the I Party to demonstrate in the Domestic Enquiry that during that period he was suffering from ill-health and had domestic reasons not to attend the duty and that in respect of that period he had applied for sanction of leave supported by medical evidence, but the Domestic Enquiry papers do disclose that he who was served with enquiry notice after taking some adjournments ultimately failed to make any representation before the Enquiry Officer as a result of which the Enquiry Officer placing him exparte receiving the evidence of the management submitted his report dated 04.10.2006 charge being proved. Even it suggests from the enquiry file that I Party did not respond to the notice given by the Disciplinary Authority calling for explanation which lead to he passing the impugned order of Removal from Service which does not disqualify for future employment under Clause 22.2(iii) of the company standing orders. Under

the circumstances, the finding of the Enquiry Officer that he failed to explain the absence of 167 days and as per the allegations of the charge sheet he did not even apply for the leave he had no other go except to say that it was an unauthorised absence. Since as already adverted to by me above the I Party who left the Domestic Enquiry to proceed in his absence after affording several reasonable opportunities having even failed to respond to the notice issued to him by the Disciplinary Authority calling upon him to give explanation did suggest that he had no intention to continue in service as such there is no reason to say the impugned order of punishment passed by the Disciplinary Authority removing him from which does not disqualify for future employment is unreasonable or disproportionate to the misconduct proved against the I Party. Under the circumstances, I have no reason to interfere either in the finding of the Enquiry Officer or the punishment imposed by the Disciplinary Authority confirmed by the Appellate Authority vide orders dated 02.04.2007 and 12.10.2007 respectively. In the result, I have arrived at conclusion of Rejecting the Reference and pass the following

ORDER

The Reference is Rejected holding that the action of the management of Bharat Earth Movers Limited, Bangalore in terminating the services of their workman Shri M V Gururaj, w.e.f. 02/04/2007 (removing him from which does not disqualify for future employment) is legal and justified and he is entitle for any other relief.

S. N. NAVALGUND, Presiding Officer

ANNEXURE-I

Witnesses examined on behalf of II Party:

Nil

Witnesses examined on behalf of I Party:

Nil

Documents exhibited by consent:

Ex M-1	:	Charge Sheet dated 06.03.2006 issued to the I Party
Ex M-2	:	Letter dated 16.03.2006 of the I Party
Ex M-3	:	Appointment of Sh Manjunath as Enquiry Officer
Ex M-4	:	Proceedings of enquiry dated 09.05.2006
Ex M-5	:	Proceedings of enquiry dated 26.05.2006
Ex M-6	:	Enquiry Notice dated 17.06.2006
Ex M-7	:	Acknowledgement of notice dated 17.06.2006

Ex M-8	:	Proceedings of enquiry dated 26.06.2006
Ex M-9	:	Proceedings of enquiry dated 01.07.2006
Ex M-10	:	Letter of I party dated 01.07.2006
Ex M-11	:	Proceedings of enquiry dated 14.07.2006
Ex M-12	:	Enquiry Notice dated 31.07.2006
Ex M-13	:	Acknowledgement
Ex M-14	:	Proceedings of enquiry dated 08.08.2006
Ex M-15	:	Exhibit M1 marked in the enquiry
Ex M-16	:	Enquiry Report dated 04.10.2006
Ex M-17	:	Letter dated 29.12.2006 sent by I Party a/ w report
Ex M-18	:	Second Show Cause Notice dated 02.03.2007
Ex M-19	:	Acknowledgement
Ex M-20	:	Order of removal dated 02.04.2007
Ex M-21	:	Receipt for having paid one month wages
Ex M-22	:	Appeal Memo of I Party dated 05.04.2007.

नई दिल्ली, 20 नवम्बर, 2014

का.आ. 3033.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक केंद्रीय तंबाकू अनुसंधान संस्थान के प्रबंधन के संबंध निर्योजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 28/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/52/2006-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th November, 2014

S.O. 3033.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. 28/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Director, Central Tobacco Research Institute and their workman, which was received by the Central Government on 18/11/2014.

[No.L-40012/52/2006-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT HYDERABAD****Present :** Smt. M. Vijaya Lakshmi, Presiding OfficerDated the 28th day of October, 2014**INDUSTRIAL DISPUTE No. 28/2007****Between :**

Sri Bikkina Koteswara Rao,
S/o Late Veeraraju,
D.No.1-20, Kotheru (P.O.),
Rajahmundry Rural,
E.G. District

...Petitioner

AND

The Director,
Central Tobacco Research Institute,
Rajahmundry

...Respondent

Appearances :

For the Petitioner : M/s. M.V.S. Sarma, Anil Kumar &
Dhan Raj, Advocates

For the Respondent : M/s. Ch. Dhanamjaya,
G. Mallikarjun Rao & P. Narsing
Rao, Advocates

AWARD

In pursuance of the claim made by workman Sri Bikkina Koteswara Rao, applicant workman (Hereinafter be referred to as workman) invoking Sec.10(1)(d) of Industrial Disputes Act, 1947 claiming that he was illegally terminated from service as Lab Attendar, Central Tobacco Research Institute, Rajahmundry in violation of Sec. 2(oo), 25(H), 25G, 25F, Sec.2R(a) read with 25(ii) and 25(o) of Industrial Disputes Act, 1947. The Government of India, Ministry of Labour made reference vide No. L-40012/52/2006-IR(DU) dated 16.4.2007 requiring this forum to decide the question :

SCHEDULE

“Whether the action of the management of Central Tobacco Research Institute, Rajahmundry in terminating the services of their workman Shri Bikkina Koteswara Rao w.e.f. 11.2.2006 is legal and justified? If not, to what relief the workman is entitled to?”

On receipt of reference, this Tribunal has registered it as ID No. 28/2007 and issued notices to the parties concerned. They both appeared before the Tribunal.

2. The workman filed his claim statement with the averments in brief as follows :

The workman has been appointed as Lab Attendar by the Respondent on taking interview by the Selection Committee considering his suitability to work in that

capacity. He got qualification of 10th class with proficiency in cleaning of glassware etc., he got sufficient qualifications, experience, Employment card etc., the appointment order No. F1(8)LA/95-AI(R) dated 15.7.95 given to him on the following terms and conditions:-

- a. the contract is temporary, tenable upto 3 months and extendable for some more time.
- b. the contract carried a consolidated amount of Rs.1200/- (fixed) per month.
- c. The place of contract will be Rajahmundry, liable to the shifted to any research station of this institute.
- d. The engagement of lab attendar is purely work contract and will not count as service in the regular establishment.
- e. He will be given off for every Sunday but if required he has to work on holidays also.
- f. The contract is under the Administrative Control of the Director of the Institute.
- g. Conditions/terms governed by relevant rules and orders issued by CTRI/ICAR.
- h. Intimation of acceptance of Director, CTRI-Rajahmundry within 7 days.

He was told that during the year 16 permanent vacancies available and there is lot of chance to be regularized in the vacant post on completion of 240 days of service. He completed more than 10 years of service but without fruitful result. On the other hand he received termination order. He continued in the job of lab attendar on the same terms and conditions from 18.7.1995 to 12.1.1997 with the same salary. The orders emanated from the Recruitment Cell of CTRI-Rajahmundry where from all appointment orders of regular nature emanate. On 17.1.1997 to extinguish the rights of the lab attendar for regularization or claim for minimum wages the management shifted the matter to works section i.e., Administration-III to address the lab attendar on contract basis and issuing the work orders to his address on obtaining of hand quotations but getting /abstracting the same nature of duties of permanent post of lab attendar, at the same rate vide office order No. F. 46/9/96-97/A.III dated 16.1.1997, 1.4.1997, No.38/1/97-98-Adm.III dated 2.7.97 & 31.10.97, 11.2.98, 14.5.98, 9.6.98, 4.8.98, 30.10.98, 1.1.99, 19.3.99, 13.5.99, 1.9.99 and he worked continuously. Subsequently management has changed the system paid the salary through sanction register in the name of Div of Crop Improvement from 1.10.2000 upto 31.7.2002. Again another new system has been introduced w.e.f. 11.8.2002 and quotations were taken from a group of 9 persons, as one person among them as contractor rotating every three months similar nature of work with regular Group D persons were being done @ Rs.1900/- per month only. workman has completed 11 years

of service with the management without any break. He performed the full time duty on par with the duties attached to permanent Group D post. Since he completed 11 years of service, so, he orally requested the management to regularize his services. Unfortunately his name has been removed from the muster roll without serving any kind of notice as per Sec.25F of Industrial Disputes Act, 1947. He was not paid any retrenchment compensation either. Whereas his juniors were retained in the service. During the tenure of his services the workman has worked honestly, accurately, systematically, and followed the office duty hours in a correct manner. All the officers and staff appreciated his work. The Head of the Department also in principal orally accepted that he was working diligently, honestly, accurately, systematically and promised that his services would be regularized. As per the oral directions he submitted a representation together with copy of circular No. OM No.51016/2/90-Estt(C) dated 10.9.1993 for regularization of his services. When management has issued an office order No. F1(44)2004-Adm.I dated 13.12.2004 basing on the orders No.1/6/2004-LS.II dated Sept. 2004 of the Chief Labour Commissioner (Central), New Delhi revised rates of wages to the Casual Workers engaged on Minimum Wages for various Agricultural operations under unskilled category @ 94.04 till the date of his service. They have not implemented their notification and paid the wages to the labour engaged by them which amounts to unfair labour practice. The management did not Personal Assistant the equal wages for the equal work. The workman has worked directly under the supervision of CTRI, Rajahmundry, the management for a period of 10 years and later on he has been shifted the watch and ward group of contract system keeping one person as contractor and remaining of them as contract labour and his services have been taken as watchman and was paid through a contractor. He submitted a representation to the management requesting to regularize his services which was rejected by the management vide letter dated 1.2.2005 without considering his past services. Having no alternative he approached the Hon'ble Central Administrative Tribunal, Hyderabad. Vide order No.392/2005 dated 11.5.2005, the Hon'ble Central Administrative Tribunal directed the management that the applicant will not be singled out for disengaging the applicant. But the management kept junior persons service and terminated the services of workman. But the Hon'ble Central Administrative Tribunal rejected the application of the workman to regularize his services there is continuation of the services of the workman with the management during the said period his services were not sanctioned under the sanctioned registers maintained by the Section Divisions Crop improvement and also Bio-Technology Laboratory(DBT). There were appointment orders also. Hence, the action of the management in

terminating services of the workman is illegal, arbitrary and motivated and also against the principles of natural justice and the provisions of Industrial Disputes Act, 1947. Petitioner is now over-aged and at this stage he is unable to secure any job in any other organization and the members of his family are starving. He is to be granted the relief of reinstatement of service with continuity of service and back wages.

3. Whereas the management filed their counter statement with the averments in brief as follows :

The industrial dispute raised by the workman is maintainable neither under law nor on the facts of the case. It is only an after thought after the rejection of OA No.392/2005 filed by the workman against the management before the Hon'ble Central Administrative Tribunal on 26.10.2005 wherein the workman has questioned the termination of his services. The present application is filed almost for the similar relief and consequential benefits. As such, this Industrial Dispute is not at all maintainable. It is filed only to make unlawful gains. The workman was awarded the work of Lab Attendar on contract basis under the D.T.B. Project and was continued in the job by extending the contract for every three months upto 17.7.1996. The Principal Investigator of DBT, on bio-tec stresses, was informed to discontinue the contract work awarded to the workman advising to entrust the work of casual nature by obtaining sanction under contingencies f wages without dislocation of existing scheme work on need basis vide their office order No.F.1(8)(DBT)/96-Admn.I, dated 29.10.1996. Thus, the contract work was awarded to the workman was dispensed with effect from 29.10.1996. Accordingly, Principal Investigator, has extracted the casual nature of work by obtaining of sanction from the sanction register from time to time on need basis. Further quotations have been called for the work of cleaning of Lab, equipment etc., to award the work on contract basis for 3 months. Since the workman has quoted the lowest rate he was awarded the work on contract basis. Similarly, quotations were called for on every occasion and work was awarded of the contractor who offered lowest rate for the said work without deviation of rules and regulations. The workman was never paid wages and it was only a contractual amount. He made a representation to consider him for temporary status. The temporary status was awarded to casual labourers, who are in employment on the cut off date of issuance of the office order dated 10.9.1993. The scheme of grant of temporary status to the casual labourers has contained in the OM dated 10.9.1993, is a one time measure and applicable in respect of casual labours who are in service on the very date of notification of the scheme and rendered one year continuous service of 240 days. This temporary status scheme was made applicable to those casual labourers who are on muster rolls as on 10.9.1993. Applicant was a contract worker from 18.7.1995, the said scheme is

not applicable to him. therefore his claim for temporary status has been rejected. The workman was working under the control of the contractor since the work was awarded to the contractor, his claim that he has been working under the control of management is baseless. The order dated 26.10.1995 in OA 393/2005 of the Hon'ble Central Administrative Tribunal has become final. In the said order workman's plea for continuation of service has been rejected. As such, he cannot take shelter under the ratio of other judgements which are not applicable to the instant case. The workman has never been a worker or an employee of the management. he has been working under contractor on contract basis as such there is no relationship of employer and workman between them. As such, the ID filed by the applicant is not at all maintainable and it is liable to be dismissed.

4. Either party filed their respective documents. To substantiate the contentions of the workman he examined himself as WW1 and through him Ex.W1 to W18 were marked. On behalf of the management MW1 has been examined and Ex.M1 to M7 were marked. While MW1 was under cross-examination Ex.W19 and W20 were confronted to him and were marked through him.

5. Written arguments were filed by either party.

6. The Points that arise for determination are as follows :

- I. Whether this industrial dispute is not maintainable in view of the order of the Hon'ble Central Administrative Tribunal's order in OA No. 392/2005 dated 26.10.2005?
- II. Whether the workman has been working under the management directly or whether he has been working under the control of any contractor?
- III. Whether the order of termination of the services of the workman w.e.f. 11.2.2006 is legal and justified?
- IV. To what relief he is entitled?

7. Point No.I :

The pleadings in this case reveal that admittedly the workman has approached the Hon'ble Central Administrative Tribunal by filing OA 392/2005 and an order dated 26.10.2005 has been passed by the said forum. As rightly contended for the workman the said order has been passed much before the cause of action for raising the present industrial dispute arose. It can be said so since it is the contention of the workman that his services were terminated by the respondent Management with effect from 11.2.2006 and his claim is that the said termination of services is neither legal nor justified and that it is in violation of Sec.25F of Industrial Disputes Act, 1947 and therefore the same are to be set aside and he is to be reinstated into service. Whereas, the very

order rendered in OA 392/2005 by the Central Administrative Tribunal is dated 26.10.2005 i.e., much before the date of arising of cause of action for the present industrial dispute and therefore, it can never act as *res judi cata* for the present proceedings.

8. Further more, the present dispute is regarding the legality or justification of termination of services of the workman with effect from 11.2.2006 whereas, in the proceedings of OA 392/2005 the question whether services of the workman were to be regularized or otherwise has been dealt with. May be, the facts regarding the service and service conditions of the workman dealt with in the said proceeding and the present proceeding are one and the same but the issue dealt with is OA 392/2005 and the issue to be dealt with in this case are totally different. Further more, by the year 2005 this Tribunal has been established conferring with the jurisdiction to decide disputes pertaining to all central government industries and undertakings. In the given circumstances the Hon'ble Central Administrative Tribunal has neither jurisdiction nor authority to deal with any industrial disputes. On this count, the order dated 26.10.2005 rendered in OA No.392/2005 whereunder an industrial dispute was sought to be resolved is certainly to be considered as a nullity. Therefore, the said order can rightly be ignored.

9. In the circumstances it can safely be held that the order dated 26.10.2005 rendered in OA 392/2005 will never act as *resjudicata* for the present industrial dispute and therefore, inspite of the said order present proceeding can be maintained.

This point is answered accordingly.

10. Point No. II :

It is an undisputed fact that the workman has been appointed as Lab Attendar by the respondent Management after inviting him to attend to an interview by sending Ex.W19 call letter. He was interviewed by a selection committee of the respondent Management and he was given appointment after being satisfied with his suitability and subject to various conditions mentioned in Ex.W1 the appointment order. Ex.M1 is no other than a copy of Ex.W1.

11. As per Ex.W1, the appointment as Lab Attendar given to the workman has been on contract basis. Further as per clause 7(1) of Ex.W1, the contract is under administrative control of the Director of Institute and as per Clause 7(ii), the incumbent of contract will devote his whole time to the contract and will not be allowed to accept or hold another contract or appointment paid or otherwise during the tenure of the contract. Clause 6 (iii) of the Ex.W1 reads that if the incumbent of the contract leaves the work without permission of the Director of the Institute or concerned project investigator/head of the Division he

will not be paid any amount due to him by the management. Thus, the averments of Ex.W1 clearly give rise to an understanding that the workman has been working full time under the direct control of the management only.

12. As can be seen from the material on record the workman has been entrusted with the work of Lab Attendar mentioning it as, on contract basis. The term of the contract has been mentioned as three months extendable at the option of the management. The said contract has been extended from time to time from 15.7.1995 to 17.10.1996. Thereafter the work has been entrusted again on contract basis to the workman for three months extending the same from time to time. The various letters under which said endorsement/extension of contract work took place and which are placed before the court marking them as Ex.W6 to W12 also clearly show that execution of work entrusted to the Petitioner was to be to the full satisfaction of the Principal Investigator, DBT Project in Biotec, Rajahmndry and as per the subject mentioned in all these letters, the work entrusted to the Petitioner has been cleaning of Laboratory Equipment /Apparatus, medium preparation, sterilization etc., in the DBT project on Biotec stresses, which are the functions of a lab assistant. As per these letters, by way of office orders the work was being entrusted to the workman from time to time, continuously.

13. Ex.W13 and W15 to W18 refer to some quotations said to have been furnished by the workman and correspondence on such quotations. The work entrusted to the workman has been attending to necessary works like bed cutting, nursery bed preparation, watering, weeding, field preparation etc.. But again under Ex.W14 the work entrusted to the workman has been sterilization and glassware cleaning etc.. But, the work entrusted to the workman under all these documents was put under the supervision of Principal Investigator, DBT Project on Biotec Stresses Scheme, as it must be to the full satisfaction of the Principal Investigator, DBT Project on Biotec Stresses Scheme, CTRI, Rajamundry and as per his directions, as per the terms of these documents.

14. From the above discussed material on record, what one can reasonably understand is that Petitioner has been called for an interview and was appointed as Lab Attendant after considering and satisfying with his qualifications, on contract basis which is extendable from time to time. He was asked to work under the administrative control of Director but an effort is made to show as if the workman has been a contract worker without any length of service by extending the period of his work from time to time upto 17.7.1996. It is the contention of the respondent that thereafter for some time the Principal Investigator extracted casual nature of work from the workman by obtaining the sanction from the sanction register from time to time on

need basis in view of the office order dated 29.6.1996 i.e., Ex.M5. But it is not the contention of the respondent that the workman has been informed at any point of time that his appointment as contract worker has been dispensed with for any given reason on any specific date. Further it is not the contention of the respondent that at any point of time the workman has been informed that in pursuance of Ex.M5 proceedings the work was being extracted from him as a casual nature of work by obtaining sanction from the sanction register from time to time on need basis and that the workman has agreed for the same and continued to work for the respondent organization. On the other hand what one can understand from the contentions put forth by the respondent and the evidence produced for the respondent, there is internal building up of record in their office with this regard but keeping the workman totally in dark about the same. This appears to have been done only to wriggle out of the consequential obligations on their part for engaging the workman in their service continuously for years together i.e., regularization of his services etc.

15. Further, even extracting of casual nature of work from the workman has been dispensed with in the record of the respondent office some time later. There after, the record shows that quotations have been called for, for the work of cleaning of lab equipments etc., to award the work on contract basis for three months and as the workman has quoted the lowest rate he was awarded the work on contract basis periodically.

16. In this context an aspect to be considered is that the respondent has not revealed the point of time at which he has chosen to dispense with extracting of casual nature of work from the workman and started to call for quotations for execution of the work. The terms of the various letters under which the work has been appearing to be entrusted to the workman by the management and which are placed before the Tribunal for consideration are to the effect that workman was to execute the work to the satisfaction of the management and also as per their directions. That means under their direct control only he has been working all along even as per the documentary evidence produced by the respondent Management before this Tribunal.

17. While deposing as WW1 Petitioner has categorically claimed that for 11 continuous years he worked for the management honestly. While he was being cross examined by management it was put to him that all the documents filed by him show that he was appointed on contract basis for specific period and that from his initial appointment till his disengagement he worked as temporary employee on contract basis. But no where it is suggested to him that he has not worked under the direct control of the management.

18. An assistant of the Respondent management has been examined as MW1 to substantiate the case of the management. As per the evidence of this witnesses, the contract work entrusted to the workman as Lab Attendar has been extended for three months after 7.3.1996 and there after since the Principal Investigator of DBT of Biotec, was instructed for discontinuance of the work, advising that the work of casual nature was to be extracted by obtaining sanction from authorities without dislocation of existing scheme of work on need basis vide Ex.M5 office order dated 29.10.1996, the Principal Investigator has extracted the causal nature of work from the workman by obtaining the sanction from the sanction register from time to time on need basis and since the workman has quoted lowest rate he was awarded the work on contract basis.

19. It is the contention of the MW1 that the contract entered into by the management with the workman has been to supply of man power according to the quotations. But a perusal of Ex.W6 to W18 does not show that the workman has been entrusted with the duty of supply of any work force/ man power to the management. On the other hand said letters do show that the workman has to execute the work entrusted to him to the satisfaction of Principal Investigator, DBT, Rajahmundry and as per his instructions. It means the workman himself has to execute the work entrusted to him under the direct control of Principal Investigator, DBT Project, Rajahmundry.

20. One another important aspect is to be noted is that it is an admitted fact that upto the year 1996 the workman has been continued in the service of the respondent either on contract or otherwise. At what point of time his services in that capacity have been terminated is not made clear to this forum. MW1 also could not state anything about it. He said that the contract was terminated in 1996. But he could not say the exact date. The same gives raise to an inference that in all likelihood there might not have been any such termination of contract. In such case extracting work from the workman during subsequent period, showing on paper as if he has been entrusted with the work, accepting his quotations, all can be taken as an effort to make up a make believe version, made only to deny the service benefits rightfully accrued to workman.

21. The management is a mighty institution, whereas workman is a petty employee of the said institution who is at the mercy of their Management. As can be seen from the attitude of the management which can be culled out from the various documents which are discussed above, though the management initially appointed the workman as Lab Attendar after duly getting him interviewed by selection committee and put him under the direct administrative control of the Director of the said institute, became cautious thereafter and built up a record to show as if he was a piece meal contractor but not a person

working under direct control of the management. But one can read between the lines and visualize that the workman has served the management continuously for 11 years, attending to the same nature of work and under the direct control of the management.

22. Only when the workman has raised his voice and sought for regularization of his services and also approached the legal forums, the management has chosen to stop taking service from him.

23. Considering the above circumstances one can clearly see that the Petitioner workman has been working for the management all along for a period of 11 years working under the direct control of the management for all practical purposes.

24. In the case of Steel Authority of India and others Vs. National Union Workers Front Workers and others 2001(1) SCC page (1), Hon'ble Apex Court has laid down tests for verifying whether the given contract labour can be treated as direct workman of the Principal Employer as follows :

“by definition the term ‘contract labour’ is a species of workman a workman shall be so deemed when he is hired in or in connection with the work of an establishment by or through a contractor, with or without the knowledge of the principal employer. A workman may be hired: (1) in an establishment by the principal employer or by his agent with or without the knowledge of the principal employer; or (2) in connection with the work of an establishment by the principal employer through a contractor or by a contractor with or without the knowledge of the principal employer. Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master-and-servant relationship between the principal employer and the workman. But where as workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question might arise whether the contractor is a mere camouflage as in Hussainbhai case and in Indian Petrochemicals Corpn. Case etc.; if the answer is in the affirmative, the workman will be in fact an employee of the principal employer; but if the answer is in the negative, the workman will be a contract labour.”

25. When this established principle laid down by Hon'ble the Apex Court is applied to the facts of the present case which are discussed above, one can clearly see that the contract pleaded herein is a mere camouflage

and the workman is in fact an employee of the principal employer, i.e., the respondent as the workman never worked under the control of any contractor.

This point is answered accordingly.

26. Point No. III :

In view of the finding given in Point No.II, it can safely be held that termination of the services of the workman with effect from 11.2.2006 on the part of the respondent Management is neither legal nor justified.

This point is answered accordingly.

27. Point No. IV :

The above discussed material on record while deciding Point No.II and the findings arrived therein clearly show that for 11 long years the workman has worked for the respondent Management continuously and to their satisfaction but the respondent Management built up a record showing as if his service was not continuous and that it was of some contract work and that he never worked directly under their control but failed in their efforts to prove the same. In the given circumstances termination of services of the workman without complying with the mandatory pre-requisites provided in Sec. 25F and 25N of Industrial Disputes Act, 1947 is a clear illegality committed on the part of the respondent. As per the well established principle of Law, laid down by Hon'ble the Apex Court, in such case, such action on the part of the respondent Management is to be set aside and a direction is to be given to them to reinstate the workman into service forth with, with all attendant benefits.

This point is answered accordingly.

Result :

In the result, the reference is answered as follows:

The action of the management of Central Tobacco Research Institute, Rajahmundry in terminating the services of their workman Shri Bikkina Koteswara Rao w.e.f. 11.2.2006 is neither legal nor justified. Hence, the same is hereby set aside. The workman shall be reinstated into service of the said Management forth with. The workman is entitled for back wages and all other attendant benefits as well.

Award is passed accordingly. Transmit.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence :

Witnesses examined for the Petitioner

WW1 : Sri Bikkina Koteswara Rao

Witnesses examined for the Respondent

MW1 : Sri K. Ganesh Babu

Documents marked for the Petitioner :

- Ex.W1 : Appointment order No.F.1(8)(Labour Court)/95-A.I(R) dt. 15.7.1995
- Ex.W2 : O.O. No.F.1(8)/(R.F)/95-Adm.I(R) dt. 1.11.95 extending contract work 3 months
- Ex.W3 : O.O. F.1(8) (R.F.)/95-Adm.I(R) dt. 24.1.1996, extending contract work 3 months
- Ex.W4 : O.O. No. F.1(8) (RF)/96- Adm.I dt.1.5.96, extending contract work 3 months
- Ex.W5 : O.O. No. F.1(8) (RF)/96- Adm.I dt. 17.7.96 extending contract work 3 months
- Ex.W6 : F.No.46(9)/96-97/AIII dt. 16.1.1997, extending contract work 3 months
- Ex.W7 : F.No.46(9)/96-97/AIII dt.1.4.1997, extending contract work 3 months
- Ex.W8 : F.No.38(1)/97-98/AIII dt.2.7.1997, extending contract work 3 months
- Ex.W9 : F.No.38(1)/97-98/AIII dt.31.10.1997, extending contract work 3 months
- Ex.W10 : F.No.38(1)/97-98/AIII dt.11.2.1998, extending contract work 3 months
- Ex.W11 : F.No.38(1)/97-98/AIII dt. 14.5.1998, extending contract work 3 months
- Ex.W12 : F.No.38(1)/97-98/AIII dt. 9.6.1998, extending contract work 3 months
- Ex.W13 : F.No.38(1)/97-98/AIII dt. 4.8.1998, extending contract work 3 months
- Ex.W14 : F.No.38(1)/98-99/AIII dt. 30.10.1998, extending contract work 3 months
- Ex.W15 : F.No.38(1)/98-99/AIII dt. 1.1.99, extending contract work 3 months
- Ex.W16 : F.No.38(1)/98-99/AIII dt. 19.3.99, extending contract work 3 months
- Ex.W17 : F.No.38(1)/98-99/AIII dt. 13.5.99, extending contract work 3 months
- Ex.W18 : F.No.38(1)/99-2000/AIII dt. 1.9.1999, extending contract work 3 months
- Ex.W19 : F.1(14)(S.F.)/Adm.I dt. 26.6.1995 memorandum calling the Petitioner for interview on 30.6.1995
- Ex.W20 : F.1(44-R)/2004-Adm.I dt. 1.2.2005, letter to Petitioner showing termination of contract work

Documents marked for the Respondent :

- Ex.M1 : Acceptance letter dated 18.7.1995 from Petitioner workman for the memorandum dated 15.7.1995
- Ex.M2 : Attested copy of order in OA No. 392/2005 dt. 26.10.2005
- Ex.M3 : Attested copy of joining report of Petitioner dt. 18.7.1995
- Ex.M4 : Attested copy of office order dt. 17.7.96
- Ex.M5 : Attested copy of office order dt. 29.10.1996
- Ex.M6 : Attested copy of OM No. 51016/2/1-Estt(C) dt. 10.9.93 of M/o Personnel P.G. and Pensions Department, Government of India along with covering letter
- Ex.M7 : Authorization letter dated 14.12.2010 given to deponent/MW1.

नई दिल्ली, 20 नवम्बर, 2014

का.आ. 3034.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एच.ई.सी. कांटेक्टर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 1, धनबाद के पंचाट (संदर्भ संख्या 21/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/147/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th November, 2014

S.O. 3034.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Reference No. 21 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the H.E.C. Contractor and their workman, which was received by the Central Government on 18/11/2014.

[No. L-42011/147/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act, 1947

Reference No. 21 of 2014

Employer in relation to the management of H.E.C. Contractor

AND

Their workman.

Present : Sri R.K.Saran, Presiding Officer

Appearances :

For the Employers : None

For the Workman : None

State : Jharkhand

Industry : Public Enterprises

Dated : 17/10/2014

AWARD

By order No. L-42011/ 147/2013-IR(DU), dated 19/02/2014 the Central Govt. in the Ministry of Labour has, in exercise of powers conferred by clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“(i) Whether the demand of Hatia Mazdoor Union for payment of wages for the period September 12 to March 2013 in respect of Abhay Kumar and Vijay Kumar both contract labours employed by the HEC Contractor, Sri Ram Kumar is legal and justified? If yes, what relief the workmen are entitled to ?”

2. The case is received from the Ministry of Labour on 03/03/2014. After receipt of reference, none is present. But subsequently parties files a joint petition alongwith memorandum of settlement, which was received by Regd. Post, stating that their disputes have been settled. This being the situation there is not dispute between the parties. Hence a No Dispute Award is passed.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 20 नवम्बर, 2014

का.आ. 3035.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार निदेशक, राष्ट्रीय प्रौद्योगिकी संस्थान के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या सीआर सं. 61/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/08/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 20th November, 2014

S.O. 3035.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. C.R. No. 61/2007) of the Central Government Industrial Tribunal-

cum-Labour Court, Bangalore now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Director, Naional Institute of Technology and their workmen, which was received by the Central Government on 18/11/2014.

[No. L-42011/08/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, YESWANTHPUR, BANGALORE

Dated : 3rd November, 2014

PRESENT : Shri S. N. NAVALGUND,
Presiding Officer

C R No. 61/2007

I Party

The President,
NITK Employees Association,
Srinivasanagar P.O.,
Surathkal-575 025

II Party

The Director,
National Institute of Technology,
Karnataka, Srinivasanagar P.O.,
Surathkal-575 025

Appearances :

I Party : Shri K. Nikesh Shetty, Advocate

II Party : Shri K. S. Bhat, Advocate

AWARD

1. The Central Government vide order No. L-42011/8/2007-IR(DU) dated 01.05.2007 in exercise of the power conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) made this reference for adjudication with the following schedule:

SCHEDULE

“Whether the demand of MITK Employees Association to implement rationalised central pay scale approved by NITK BOG on 8/10/2004 for non-teaching staff is legal and justified? If yes, to what relief the employees concerned are entitled to and from which date (s)?”

2. On receipt of the reference while registering it in C R 61/2007 when notices were issued to both sides they entered their appearance through their respective advocates and filed their claim statement on 13.12.2007 and counter statement on 12.02.2010.

3. The President of the I Party Union in his claim statement asserts that it is a Registered Trade Union under Trade Union Act, 1926 representing the non-teaching staff of the II party institution which is recognized by the II party and that the Government of India vide notification no. F-35-1/2002 T.S-III dated 14.05.2013 taken over the full administrative and financial control of all the 17 Regional Engineering Colleges including of the II Party with deemed university status and as per the Office Memorandum issued by the Ministry of Human Resources, Government of India vide No. F 20-46/2003 T-S-III (pt.iv) dated 07.06.2004 all the NITs were directed to adopt exactly identical replacement scale of pay as notified under Central Civil Services (Revised Pay) Rules, 1997 for the Central Government Employees further directing that in order to do it they have to refer to the pre-revised scales of pay prevalent in their institution immediately before 01.01.1996 which are identical to the scales of pay relevant under the Central Government at the point of time also directing new scales of pay as a process of rationalisation shall have to be duly approved and ratified by the Board of Governors of concerned NITs. It is further asserted in view of the said OM the II Party consulted the I Party and sought suggestions to prepare the draft pay scale applicable to the non-teaching staff and accordingly including the I Party Union gave their valuable suggestions to set right anomalies in the pre-revised pay scale that of the State Government and after discussion and deliberation the said drafted rationalised pay scale was placed in the 6th meeting of the Board of Governors of II Party which was held on 08.10.2004 which approved said pay scale as per item No. C4 of the minutes of the said meeting and pursuant to it a resolution was passed adopting the same and there after bringing to the notice of the finance committee that several representation have come from the non-teaching staff of the anomalies while working on the rationalized pay scale which were mostly due to delay or non-implementation of the certain instructions given by the Ministry of Human Resources Department to the institution and keeping in view the anomalies and concern of the non-teaching staff the financial committee resolved to recommend to the Board to approve the rationalized pay scales worked out by the pay scale committee given in Annexure – 2 except in case of Second Division Assistant (SDA) and those covered in Ministry of Human Resources Department letter dated 05.02.1988 and further resolved to recommend to the Board same pay scales to the SDA and Assistant Mechanics as existed earlier and then in the 7th meeting of the Board of Governors which was held on 05.09.2005 the adoption of rationalization of Central Pay Scale to the NITK, Surathkal was ratified, therefore, the non-teaching employees of the II Party are entitled to receive the benefit from the said pay scale w.e.f. 01.04.2004 and the II party ought to have implemented the same to its non-teaching employees with retrospective effect. It is

further asserted since the II Party failed to implement the same, the I Party aggrieved by the same submitted the representation dated 27.10.2005 to implement the said rationalized pay scale but instead of implementing the same the II Party issued a OM dated 03.11.2005 wherein it had unilaterally prepared one more new pay scale as a Back door policy and the copy of the same rationalized pay scale approved for both for implementation which was perse illegal, unjust and without any legal sanction. The I Party gave its objection and insisted for implementation of the rationalized pay scale approved and ratified in the 6th and 7th meeting of Board of Governors held on 08.10.2004 and 05.09.2005 respectively highlighting that partiality being made between the teaching and non-teaching staff and in that regard all the non-teaching employees also submitted their individual letter of protest and as there was no response the I Party approached the ALC(C), mangalore who after convening various conciliation proceedings and as it ended in failure due to baseless contention put forward by the II party one amongst which was that since it is an institute which is to be certified by the Controller and Audit General of India they required prior approval of the Controller and audit General of India who infact has no power to modify or approve or revise the pay scale of the II party, the Central Government made this reference for adjudication. With these assertions he prayed to pass an award to implement the pay scale approved in the 6th meeting of Board of Governors held on 08.10.2004 w.e.f. 01.10.2004.

4. INTERALIA, the II party in its counter statement without disputing that the Government of India has taken over the full administrative and financial control of Regional Engineering Colleges vide notification dated 14.05.2003 as well as Ministry of Human Resource Development (MHRD) directing all NITs through Letter No. F20-46/2003-T-S-III(pvt.iv) dated 07.06.2004 identical replacement of scale of pay as noticed in CCS (RP) rules, 1997 and the board of governors of the II party in its meeting held on 08.10.2004 approving the draft rationalized pay scale of the committee and approving the modified rationzalied of non-teaching staff held on 05.09.2005, opposed the claim of I Party contending that in view of the Government of India taking over all the full administrative and financial control of Regional Engineering Colleges (RECs) including the II party vide notification dated 14.05.2003 the II party has to take the approval of the Ministry of Human Resources Department before any decision having financial implications and as per its directions the pay of an employee must be fixed at the same stage in the new scale of pay as was being drawn by him before introduction of the new pay scale and if there is no such stage in the new scale of pay at a stage just next above his existing pay and where the stage of basic pay of an existing employee is lower than the minimum of the newly

introduced scale of pay then his pay shall be fixed at the minimum of such pay scale and similarly where existing basic pay is more than the maximum of the scale pay adopted for that post then the pay of that employee shall be fixed at the maximum of the scale of pay of his post and the difference between his existing pay and the pay fixed shall be protected as personal pay for that particular employee which shall be adjusted against future increment including stagnation increments and if the pay of an employee is fixed at the same stage then his date of increment shall not change and where pay is fixed just at the next higher stage then that employee would draw his next increment after 12 months of qualifying service. It is further asserted since there was a discontent among the employees about the fixation of basic pay stage as approved in the 6th meeting of Board of Governors ratified in the 7th Board of Governors meeting dated 05.09.2005 it was decided to seek clarification with the Integrated Finance Department (IFD), Ministry of Human Resource Department, Government of India, New Delhi and to seek guidance and in that regard a two member committee consisting of Registrar and Deputy Registrar (Accounts) was deputed for discussion and the Integrated Finance Department, Ministry of Human Resources Department which did not agree to the pay scale approved by the Board of Governors stating that the pay recommended and approved is not in accordance with the guidelines of CCS (Revised Pay) Rules, 1997 as well as the guidelines issued by the Ministry under its letter dated 07.06.2004 stated that rationalization has to be done keeping in view the existing scales of pay being drawn by the employees vis-a-vis comparable scale of pay under CCS (Revised Pay) Rules, 1997 for broadly identical post under the Central Government with commensurate compensation duties and responsibilities and also requested the institute to submit a fresh proposal indicating the modified rationalized pay for approval for the ministry before the implementation. During that discussion there was also a suggestion the equivalent rationalized pay scale which may be sent for approval after due recommendation from the board and in that regard it also received a letter from Ministry of Human Resources Department dated 01.03.2005 informing all the directors of NITs to implement the pay scale only after obtaining prior approval from the Integrated Finance Department, Ministry of Human Resources Department drawing the attention to the guidelines given in its letter dated 07.06.2003. It is further contended since the pay scales suggested by the Integrated Finance Department during the discussion by the official committee was not agreed to by the employees the matter was placed before the finance committee/board for discussion and decision and in the meanwhile Ministry of Human Resources Department through its letter dated 25.02.2005 clarified as follows :

“I am directed to refer to the letter No. Pay Scales/ Non-Teachings/Esst./2005-th B2 dated 18-2-2005 as well as the minutes of FC & BG held on 8th October, 2004 on the subject mentioned above and to say that the scales of pay recommended and approved by the Board of Governors for non-teaching employees of the Institute are not done accordance with the guidelines[^]of CCS(JRP) Rules 1997 as well as the letter No. F-20-46/2003-TS(Pt.IV) dated 7.6.2004 by the Ministry. It may be clarified that above order was issued for rationalisation of the existing scales of pay in line with the scales of pay indicated in Part-A of the CCS (RP) Rules 1997. It appears that the Institute has undertaken an exercise or revision of the scales of pay w.e.f. 1996 which was not intended by this order.

Rationalisation has to be done keeping in view the existing scales of pay being drawn by the employees vis-a-vis comparable scales of pay under CCS (RP) Rules for broadly identical posts under the Central Government with commensurate qualifications, duties and responsibilities. The matter has been discussed in detail with the Registrar and Deputy Registrar (Finance) today in the Ministry. Based on the discussion, the Institute should submit a fresh proposal indicating modified rationalised scales of pay for approval by the Ministry before implementation.

Needless to add that extension of benefits such as bonus and other such facilities as applicable to other similar Central Government employees including merger of DA, enhanced pensionary benefits for the employees of the Institute is conditional upon their accepting the rationalised scales of pay. You are requested to initiate further necessary action in this regard.”

and that was also followed by another letter dated 01.03.2005 as follows

“In continuation of this Department’s several communication on die subject mentioned above and to say that the Institutes have not followed the guidelines issued in the matter while granting replacement scales to the Non-teaching staff. Some of the Institutes have also implemented the Central pay scale to their staff, which is on a very high side. The grant of Central Government pay scale to the staff requires prior approval of not only Technical Education Bureau but also that of Integrated Finance Division of this Ministry. As such, it is requested that the details of grant of Central Government pay scales to your Institutes non-teaching staff may be brought to this Ministry for a detailed discussion on the same and giving a final shape to the proposal.

Before coming to this Ministry for discussion on the subject appropriate time and date may be fixed in consultation with Sri B. K. Ray, Desk Officer (IFD) on telephone 2338 8608. For this meeting Registrar and Deputy Registrar (Accounts) may also accompany you for sorting out any doubt etc.”

It is further contended that in view of the further development to settle the long pending issue of adopting of Central Government Pay Scale in the institution the matter was discussed with Sh. B. K. Ray, Secretary, Integrated Finance Department, Finance Division during his visit to the institution on 19.05.2005 and the director calling a meeting of non-teaching staff on 19.05.2005 at 04.30 p.m. in presence of B. K. Ray and director explained the views of the Ministry of Human Resources Department and clarified the mode of rationalization of pay scale and in the conclusion of the meeting Sh. B. K. Ray drawn up the rationalized pay scale in three tiers as per existing central rules and submitted to the director for board meeting and then the Board approved the said pay scale in its meeting held on 19.08.2005 and submitted to Ministry of Human Resources Department for approval and same came to be approved by the Ministry of Human Resources Department as per its letter dated 20.08.2005 observing as under :

“I am directed to say that the scales of pay prevalent as on 1-4-2004 in different NITs as well as other Centrally funded Institutes under the control of this Ministry has been examined and accordingly a statement containing the rationalised scale of pay for different categories of employees of your Institute has been prepare to be implemented from 1-4-2004.

While some of the existing incumbents who were drawing a higher scale of pay as on regular basis as on 1-4-2004 have been allowed to retain a higher scale of pay as personal to them, any future promotion or recruitment made or to be made after 1-4-2004 has to be regulated as per the approved scales of pay only. Similarly the scales of pay regular employees of the Institute who have retired between 1-4-2004 to 31-3-2005 are to be modified based on this rationalised scale of pay. Further, if any employee has been promoted on regular basis between these period and given a scale of pay as prevalent in the Institute up to 31-3-2004, his/her scale of pay would be modified on the basis of these rationalised scale of pay only. He can not opt to retain the pre-rationalised scale of pay.

It may also be clarified that ACP being part of the package of rationalized scales of pay would be applicable for all NITs w.e.f. 1-4-2004 only. If any ACP has been granted by the Institute before

1.4.2004, the same should be scrapped and scales now approved for implementation w.e.f. 1.4.2004 would only be applicable. Besides, the terms & conditions governing grant of ACP as given in the Office Memorandum No. 35034/1/1997-Estt (D) dated August 9, 1999 (Copy enclosed) and subsequent clarifications issued by DOP&T, GOI [please refer to Swamy's Manual on Establishment & Administration] may be followed.

It is clarified that in terms of condition number 4 of the ACP Scheme, the first financial upgradation shall be allowed after 12 years of regular service and the second financial upgradation after 12 years of regular service from the date of the first financial upgradation, subject to fulfilment of the prescribed conditions. Condition number 5.1 further provides that two financial upgradations under the ACP Scheme shall be available only if no regular promotions during the prescribed periods (12 and 24 years) have been availed by an employee. If any employee has already received one regular promotion, he shall qualify for the second financial upgradation only on completion of 24 years of regular service with reference to entry grade as a direct recruit or 12 years of service from the date of promotion for 1st ACP under the Scheme. Condition number 15 provides that, subject to condition number 4, where the employees have already completed 24 years of regular service, with or without a promotion, the second financial upgradation under the Scheme shall be granted directly. The period of regular service for grant of benefit under ACP will be counted from the grade in which an employee was appointed as a direct recruit. An existing employee of the Institute would be considered if he has been selected to that post on the basis of an examination/section in which candidates from open market/outside the Institute were allowed to compete.

Three stages of the Scales of Pay in respect of all the existing post (entry – ACP – I & ACP – II) have been given in the Annexure. Therefore, if an employee who is presently drawing a higher scale of pay (say at ACP-1) than his entitlement with reference to entry grade, he may be allowed to retain his existing scale and he would deem to be treated as having been granted premature ACP-1 and he would be considered for 2nd ACP on completion of 24 years of service or 12 years of service from the date of his drawing a higher scale of pay whichever is later. However, no ACP would be applicable if the scale of pay allowed to be retained by an existing employee as personal is considered two steps ahead of his entry level scale of pay.

Pay fixation : The pay of an employee as on 1.4.2004 would be fixed at the same stage in the rationalised scale of pay. But if there is no stage in the rationalised scale of pay, it pay be fixed at the next higher stage in the new scale of pay. In such a situation, he/she shall draw his next increment after completion of 12 months of qualifying service only i.e. on 1.4.2005.

After rationalisation of the scales of pay w.e.f. 1-4-2004, the Dearness Allowance up to the extent 50% will be treated as Dearness Pay (DP) and it should be shown as a distinct element in the salary ledger and salary slip of the employee. For example, if an employee who was getting a basic pay of Rs. 5000 and DA of Rs. 3050 (@61%), he would get a basic pay of Rs. 5000 + DP of Rs. 2500 and DA @ 11 % on Basic Pay + DP i.e. 825/- after rationalization, [benefit Rs. 8325 – Rs. 8050 = Rs. 275] other allowances like HRA & NPA would be granted based on Basic Pay + DP. However, DP would not count for revised entitlement for grant of TA/DA on tour or LTC and for allotment of quarters. Rate of DA would be @ 11 % from 1-4-2004 to 30-6-2004 and @ 14% from 1-7-2004 and 17% w.e.f. 1-1-2005.

Action taken in this regard may please be intimated to this office. For any specific difficulty with regard to implementation of this order, the matter may be referred to the Ministry for appropriate advice”.

Thereafter the board of governors in its meeting held on 05.09.2005 the said modified rationalized pay scales as approved by the Ministry of Human Resources Department as same came to be accepted and agreed by all the non-teaching staff except a few who lodged a letter of protest individually stating that anomalies have occurred in the rationalized scale and the same modified pay scale has been implemented from the month of October 2005. It is further contended to consider the alleged anomalies the board constituted a sub-committee to deliberate in the board meeting held on 25.03.2006 and accordingly the committee submitted its recommendations to the finance committee and same were approved by the Board in its meeting held on 31.03.2007 and that also came to be implemented from 01.04.2004 with retrospective effect. Thus it is contended the allegation of the I Party that the II Party has unilaterally prepared one more new pay scale under OM dated 03.11.2005 as a back door policy and same is perse, illegal and without any legal sanctity is far from truth and the OM dated 03.11.2005 is in compliance with the Ministry of Human Resources Department directions, therefore, the reference is liable to be rejected.

5. After the II Party filing its counter statement the I Party filed its Rejoinder contending that Integrated Finance

Department, Ministry of Human Resources Department has no role in objecting the resolution passed and ratified by the Board of Governors of the II Party, therefore, the pay scale fixed more fully in the 6th Board of Governors meeting dated 08.10.2004 has to be given effect to.

6. After completion of the pleadings the learned advocate appearing for the I Party while filing the affidavit of Sh. Uday Kumar, Vice President of the I Party association reiterating the averments of the claim statement examining him on oath as WW 1 got exhibited Photostat copy of the Office Memorandum dated 09.11.2003 issued by Ministry of Human Resources Department, Government of India; Photostat copy of the Office Memorandum dated 07.06.2004 issued by Ministry of Human Resources Department, Government of India; Official Memorandum issued by the II Party dated 07.12.2004; copy of the pre-revised 1993 State Scale; Copy of the Central Pay Scale w.e.f. 01.01.1996; copy of the minutes of 6th meeting of Board of Governors of NITK, Surathkal along with copy of pay scale approved by the 6th meeting of Board of Governors of NITK, Surathkal dated 08.10.2004; Report on pay scales of non-teaching staff dated 30.11.2004; letter dated 25.02.2005 issued by the Ministry of Human Resources Department, New Delhi; letter dated 01.03.2005 issued by the Ministry of Human Resources Department, New Delhi; Report on Revision of Pay Scales of Non-Teaching Staff along with details of pay scales dated 20.08.2005; Registration Certificate dated 02.08.2005 issued by deputy Registrar of Trade Unions, Mangalore Division; Copy of the Minutes of 7th meeting of Board of Governors of NITK, Surathkal dated 13.10.2005 along with the copy of the Pay Scale approved by the 7th Meeting of Board of Governors of NITK, Surathkal; copy of the representation dated 27.10.2005 made by the I party to the II Party for implementation of approved pay scale in 6th Board of Governors Meeting; Official Memorandum dated 03.11.2005 issued by the II Party; Office Proceedings of II Party dated 18.11.2005 along with the proposed rationalized scales for Non-teaching Staff of II Party; Office Memorandum of II Party dated 23.11.2005 along with details of pay scales for the staff; letter of protest dated 30.08.2007 submitted to the II Party by the I Party; Notarized copy of the minutes of the 38th Annual General Body Meeting dated 26.02.2010 and Notarized copy of the minutes of the Executive Committee Meeting dated 10.06.2010 as Ex W-1 to Ex W-19 respectively and closed his side. INTERALIA, the learned advocate appearing for the II party after cross-examining WW 1 (M), while filing the affidavit of Sh. Y Rammohan, Deputy Registrar (Accounts) of the II party reiterating the contention of the counter statement while examining him on oath as MW 1 (M) got exhibited copy of Government Order dated 19.11.2009 regarding rectification of anomaly pay scale of Programmers; copy of Government

Order dated 18.02.2010 mapping of pay scales based on 6th Pay Commission; copy of the order passed in W P No. 8226/2006 dated 04.10.2010 wherein 18 foremen working in the II party moved the Hon'ble High court to hold that they are entitle to be fixed in the pay scale of Rs. 920-1725 in the year 1982 and corresponding scales as revised in the subsequent pay scales which took place in the year 1987, 1993 and 1998 with a further direction to scale on par with the Assistant Registrar from the date on which the post of Assistant Registrar was created wherein a direction is issued to fix their scale of pay in Rs. 6500-200-10500 w.e.f. 01.04.2004 and make payment of the arrears; copy of resolution dated 05.07.2009 of the 20th Board of Governors rectifying certain anomalies (Reg. Asst Mechanic) as Ex M-1 to Ex M-4 respectively.

7. With the above pleadings and the evidence brought on record when the learned advocate appearing for the parties were called upon the address arguments the learned advocate appearing for the I party rest contended by submitting that though foremen are concerned the scale of pay are given as per order of the Hon'ble High Court in WP No. 8226/2006 anomalies in respect of mechanics and helpers are left unaltered under Ex M-4 and as Board of Governors represent Ministry of Human Resources Department, the Ministry of Human Resources Department need not be a party to the dispute therefore even in Writ Petition the Union Government was not made party and inspite of it Hon'ble High Court considered claim put forward in that Writ Petition. INTERALIA, the learned advocate appearing for the II party urged that as per the pleadings of the I Party itself the Government of India having taken over the full administrative and financial control of all the 17 RECs including the II Party vide notification dated 14.05.2003 since the II Party comes under the purview of Ministry of Human Resources Department its Integrated Finance Department has a role in suggesting/correcting if any mistakes are found in the actions of the Board of Governors of the II Party and accordingly as high lighted in the counter statement pursuant to the suggestions of the Integrated Finance Department, Ministry of Human Resources Department the Ministry of Human Resources Department having issued directions to modify the pay scale adopted in the 6th Board of Governors modified pay scales dated 08.10.2004 being issued the contention Integrated Finance Department, Ministry of Human Resources Department had no role to play is bereft of merits.

8. On appreciation of the pleadings, oral and documentary evidence brought on record in the light of the arguments put forward by the learned advocate appearing for both sides, I am of the considered view that the demand of the NITK employees association to implement the rationalized central pay scale approved by

the NITK, 6th Board of Governors dated 08.10.2004 for non-teaching staff is not legal and justified and that they are not entitle for any relief for the following.

REASONS

9. WW 1 having categorically admitted in his cross-examination that a finance committee was constituted by the Board of Governors of II Party to formulate and recommend an exactly identical replacement of scales as notified under CCS (Revised Pay) Rules 1997 and that committee submitted his pay scale to the board of governors and it was accepted in the Board of Governors meeting dated 08.10.2004 and forwarded to Ministry of Human Resources Department and Ministry of Human Resources Department opined that it was not in accordance with Government Order dated 07.06.2004 as per Ex W-9 and subsequently officers of Ministry of Human Resources Department, II Party institution discussed with office bearers of their association and thereafter ministry prepared separate pay scale and forwarded to II Party Institution as per Ex W-10 practically he accepted the contention of the II Party how the modified pay scale as per Ex W-10 came to be substituted to the pay scale approved in the 6th Board of Governors meeting dated 08.10.2004. When admittedly as per the pleadings of the I Party itself the government of India vide notification dated 14.05.2003 taken over the full administrative and financial control of all the 17 RECs and Ministry of Human Resources Department, Government of India vide notification dated 07.06.2004 directed to adopt exactly identical replacement of scale as notified under the Central Civil Services (Revise Pay) Rules 1997 for the Central Government employees the assertion/claim of the I Party that Integrated Finance Department, Ministry of Human Resources Department has no role to interfere in the decision of the Board of Governors of the II party in the matter of fixation of pay scale has no substance. On the other hand the learned advocate appearing for the I Party failed to demonstrate how the suggestions given by the Integrated Finance Department, Ministry of Human Resources Department for modification of the pay scale approved in the 6th Board of Governors is erroneous and as the OM dated 03.11.2005 in respect of the revision of the pay scales being inconsonance with the Ministry of Human Resources Department directions after due discussion with the I Party association the claim of the I Party that it is unilateral action of the II Party adopting back door policy is unacceptable and there is no substance or force in its claim that its demand to implement the rationalized Central pay scale approved by the NITK Board of Governors on 08.10.2004. As far as the grievance urged during the course of arguments that as per the order of the Hon'ble High Court in W P No. 8226/2006 only scale of pay in respect of foreman are given effect to and not in respect of mechanics and helpers is all together a different

issue in respect of which the I Party is at liberty to submit a representation to the II Party and if the same is not acceded to and it is aggrieved it may move the appropriate authority for necessary relief and this is not a forum to adjudicate that aspect. Under the circumstances, I arrive at conclusion that the demand of the NITK Employees Association to implement rationalised central pay scale approved by NITK BOG on 8/10/2004 for non-teaching staff is not legal and justified and that they are not entitle for any relief. In the result, I pass the following.

ORDER

The reference is rejected holding that the demand of demand of the NITK Employees Association to implement rationalised central pay scale approved by NITK BOG on 8/10/2004 for no-teaching staff is not legal and justified and that they are not entitle for any relief.

S. N. NAVALGUND, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2014

का.आ. 3036.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफएसटीपीपी के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 44/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/175/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th November, 2014

S.O. 3036.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Ref. No. 44 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the FSTPP and their workmen, which was received by the Central Government on 20/11/2014.

[No. L-42011/175/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 44 of 2014

Parties : Employers in relation to the management of
FSTPP

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : Mr. Uttam Kumar Mondal,
management Ld. Counsel.

On behalf of the : None
workman

State : West Bengal Industry : Thermal Power

Dated: 13th November, 2014

AWARD

By Order No.L-42011/175/2012-IR(DU) dated 26.05.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of Management is justified for implementing/allowing two types of wages for contractual workers like ‘norms’ and ‘non-norms’ is legal and/or justified? If not, what relief the workman are entitled to?”

2. When the case is taken up today for hearing, Ld. Counsel appearing for the management files the photo copy of the order dated 03.09.2014 passed by the Hon’ble High Court, Calcutta in connection with the W.P. No. 21628 (W) of 2014. It appears from the said order that the Hon’ble High Court has been pleased to set aside the instant order of reference.

3. Considering the facts and circumstance, instant reference case is dropped.

Dated, Kolkata,
The 13th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2014

का.आ. 3037.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफएसटीपीपी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 45/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/174/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th November, 2014

S.O. 3037.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Ref. No. 45 of 2014) of the Central Government Industrial

Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the FSTPP and their workmen, which was received by the Central Government on 20/11/2014.

[No.L-42011/174/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA**

Reference No. 45 of 2014

Parties : Employers in relation to the management
of FSTPP

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : Mr. Uttam Kumar Mondal,
management Ld. Counsel.

On behalf of the : None
workman

State : West Bengal Industry : Thermal Power

Dated: 13th November, 2014

AWARD

By Order No.L-42011/174/2012-IR(DU) dated 26.05.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of Management is justified for implementing/allowing two types of wages for contractual workers like ‘norms’ and ‘non-norms’ is legal and/or justified? If not, what relief the workman are entitled to?”

2. When the case is taken up today for hearing, Ld. Counsel appearing for the management files the photo copy of the order dated 03.09.2014 passed by the Hon’ble High Court, Calcutta in connection with the W.P. No. 21628 (W) of 2014. It appears from the said order that the Hon’ble High Court has been pleased to set aside the instant order of reference.

3. Considering the facts and circumstance, instant reference case is dropped.

Dated, Kolkata,
The 13th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2014

का.आ. 3038.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफएसटीपीपी के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 46/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/173/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th November, 2014

S.O. 3038.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Ref. No. 46 of 2014) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the FSTPP and their workmen, which was received by the Central Government on 20/11/2014.

[No. L-42011/173/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 46 of 2014

Parties : Employers in relation to the management
of FSTPP

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : Mr. Uttam Kumar Mondal,
management Ld. Counsel

On behalf of the : Mr. Partha Mukherjee,
workman Ld. Counsel

State : West Bengal Industry : Thermal Power

Dated: 13th November, 2014

AWARD

By Order No. L-42011/173/2012-IR(DU) dated 26.05.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of Management is justified for implementing/allowing two types of wages for contractual workers like ‘norms’ and ‘non-norms’ is legal and/or justified? If not, what relief the workman are entitled to?”

2. When the case is taken up today for hearing, Ld. Counsel appearing for the management files the photo copy of the order dated 03.09.2014 passed by the Hon’ble High Court, Calcutta in connection with the W.P. No. 21628 (W) of 2014. It appears from the said order that the Hon’ble High Court has been pleased to set aside the instant order of reference.

3. Considering the facts and circumstance, instant reference case is dropped.

Dated, Kolkata,

The 13th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 24 नवम्बर, 2014

का.आ. 3039.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सेंट्रल लेदर रिसर्च इंस्टिट्यूट के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 11/2008) को प्रकाशित करती है जो केन्द्रीय सरकार को 20/11/2014 को प्राप्त हुआ था।

[सं. एल-42012/8/2008-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 24th November, 2014

S.O. 3039.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Ref. No. 11 of 2008) of the Central Government Industrial Tribunal-cum-Labour Court, Kolkata now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Central Leather Research Institute and their workman, which was received by the Central Government on 20/11/2014.

[No. L-42012/8/2008-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT KOLKATA

Reference No. 11 of 2008

Parties : Employers in relation to the management
of Central Leather Research Institute

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance :

On behalf of the : None
management

On behalf of the : Mr. Lipika Mondal, the
workman concerned workman in person

State : West Bengal Industry : Leather

Dated: 12th November, 2014

AWARD

By Order No.L-42012/8/2008-IR(DU) dated 08.04.2008 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of Central Leather Research Institute/Regional Centre for Extension and Development Unit, Kolkata in terminating the services of their workman Smt. Lipika Mondal w.e.f. 15/06/2007 is legal and justified? If not, to what relief the workman is entitled to?”

2. The case of the concerned workman is, in a nutshell, as follows:

The concerned workman was appointed as one of the Research Assistant of Central Leather Research Institute and appointment letter was accordingly issued on 25.04.1995. Subsequently in the year 2003 the institute engaged the workman as Project Trainee and she worked from 01.04.2003 to 31.03.2005 as Project Trainee and thereafter she worked as Project Assistant. But unfortunately on 15.06.2007 without assigning any reason, the management terminated her service though she rendered her service in various posts continuously for 12 years without any interruption. It is also the case of the workman that at the time of termination the management did not comply with the provisions of Section 25F of the Industrial Disputes Act, 1947.

3. Management after getting notice appeared in this reference case and filed written statement alongwith list of witnesses. But no document was filed alongwith the written statement. Ultimately the management did not contest the case.

4. The concerned workman has also filed rejoinder against the written statement filed on behalf of the management.

5. In the instant reference case the concerned workman in order to prove her case has examined herself as WW-01; but it appears that the concerned workman did not take any initiative to prove the documents which she filed alongwith her statement of claim.

6. The workman in her unchallenged testimony has stated that she was first appointed on DST Project for a period one year. Thereafter, she was engaged for analysis of leather etc. After that she was appointed as Project Assistant. From her oral testimony it further appears that she worked till 14.06.2007. She in her oral evidence has further stated that on 15.06.2007 without assigning any reason the management terminated her service, though she rendered service in various posts continuously for 12 years without any interruption. So the un-assailed testimony of the concerned workman corroborates the statements made in her statement of claim.

7. Considering the above facts and circumstances, there is no reason to disbelieve the contention of the statement of claim filed on behalf of the workman which has also been corroborated by the unchallenged oral evidence of the workman.

8. In view of the above, it appears that the management without complying with the provisions of Section 25F of the Industrial Disputes Act, 1947 terminated the service of the concerned workman which is illegal and void. Accordingly, she is entitled to be reinstated in service with full back wages.

9. The reference is answered accordingly.

Dated, Kolkata,

The 12th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3040.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 148/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 25/11/2014 को प्राप्त हुआ था।

[सं. एल-40011/42/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th November, 2014

S.O. 3040.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (I.D. No. Ref. No. 148 of 2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workmen, which was received by the Central Government on 25/11/2014.

[No. L-40011/42/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2),
AT DHANBAD

PRESENT : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 148 OF 2013

PARTIES :

The President,
BSNL Casual Shramik Sangh,
Dulhin Bazar Belhouri, Patna, Bihar

Vs.

The Chief Gen. Manager,
Bharat Sanchar Nigam Ltd.,
Patna Telecom Circle, Patna, Bihar
Ministry's Order No. L-40011/42/2013-IR(DU) dt.6.8.2013

APPEARANCES :

On behalf of the Workman/Union : None

On behalf of the Management : None

State : Bihar Industry : Telecom

Dated, Dhanbad, the 21st Oct., 2014

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec.10 (1) (d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40011/42/2013-IR (DU) dt.06.08.2013.

SCHEDULE

“Whether the action of the management of Bharat Sanchar Nigam Ltd., Patna, in terminating the services of Shri Prem Sagar workman w.e.f. 01.02.2012 is legal and justified? To what relief the workman concerned is entitled to?”

2. Neither Union Representative nor workman Prem Sagar appeared nor the workman filed any written statement with his documents or any appeared for the O.P./Management.

On perusal of the case record, I find three Regd. Notices issued to the both the parties but the Union Representative or the workman could not respond any of the three Regd. notices dt.30.10.13,12.5.14 and 25.8.14 which were issued to them on their addresses as noted in the Reference itself. It clearly appears that the Union Representative as well as the workman is quite reluctant in pursuing the case for finality. The case has all along

been pending since its registration for filing written statement with the documents on behalf of the workman. It appears to be no longer an Industrial Dispute. Hence an order of ‘No Dispute’ is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3041.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 70/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/134/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 25th November, 2014

S.O. 3041.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 70 of 2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and their workman, which was received by the Central Government on 24/11/2014.

[No. L-40012/134/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2),
AT DHANBAD

PRESENT : Shri Kishori Ram, Presiding Officer

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO. 70 OF 2013

PARTIES :

Shri Naresh Prasad S/o
Late Shri Heralal Singh
R/o Mohalla Shahschak,
PO: Aira, Jahanabad,

Vs.

The General Manager,
Bharat Sanchar Nigam Ltd., Patna,
Patna Telecom Circle,
Patna

Ministry's Order No. L-40012/134/2012-IR(DU)
dt.18.03.2013

On behalf of the : None
Workman/Union

On behalf of the : Mr. Sushil Prasad, Ld. Advocate
Management

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 10th Oct., 2014

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec.10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-40012/134/2012-IR(DU) dt.18.03.2013.

SCHEDULE

“Whether the action of the management of Bharat Sanchar Nigam Ltd., Patna, in terminating the services of Shri Naresh Prasad S/o Late Shri Heralal Singh is legal and justified? To what relief the workman concerned is entitled to?”

2. Neither workman Naresh Prasad appeared nor filed his written statement with any documents whereas Mr. Sushil Prasad the Ld. Advocate for OP/Management is present.

On perusal of the case record, it appears the case has been all along pending for filing the written statement with the documents on behalf of the workman. Despite four registered Notices dt. 25.4.13, 11.3.14, 23.6.14 and lastly 3.10.2014 to the workman on his address as noted in the reference, he failed to respond to the Notices so far by filing his written statement along with the documents. The workman by his willful negligence appears to be quite uninterested in pursuing the case for its proper final disposal. It appears to be no longer an Industrial Dispute. Hence, the case is closed; accordingly an order of ‘No industrial Dispute’ is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार न्यू इंडिया अस्सुरेन्स कंपनी लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 08/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-17012/1/2010-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 08/2010) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of The New India Assurance Company Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-17012/1/2010-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

PRESENT : SHRI RAKESH KUMAR, Presiding Officer

I.D. No. 08/2010

Ref. No. L-17012/1/2010-IR(M) dated: 20.04.2010

BETWEEN

Shri Ram Avtar S/o Shri Sonari,
Village & J Post Kavethi, Tehsil Bheeti,
Distt. Ambedkar Nagar (UP)

AND

1. The Divisional Manager
The New India Assurance Company Ltd.,
1, Acharya Narendradev Nagar Readganj,
Faizabad
2. The Branch Manager
The New India Assurance Co. Ltd.,
159, Rikabganj,
Faizabad.

AWARD

1. By order No. L-17012/1/2010-IR(M) dated: 20.04.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between Shri Ram Avtar S/o Shri Sonari, Village & J Post Kavethi, Tehsil Bheeti, Distt. Ambedkar Nagar (UP) and the Divisional Manager, The New India Assurance Company Ltd., 1, Acharya Narendradev Nagar Readganj, Faizabad & the Branch Manager, The New India Assurance Co. Ltd., 159, Rikabganj, Faizabad to this CGIT-cum-Labour Court, Lucknow for adjudication.

2. The reference under adjudication is:

“WHETHER THE ACTION OF MANAGEMENT OF
THE NEW INDIA ASSURANCE COMPANY LTD.

KANPUR/FAIZABAD IN TERMINATING THE SERVICES OF SHRI RAMAVTAR W.E.F. 16/6/2006 IS JUST AND LEGAL? TO WHAT RELIEF THE WORKMAN CONCERNED IS ENTITLED?"

3. The case of the workman, Ram Avtar, in brief, is that he had initially been appointed as Peon/Guard on 05.01.1990 on daily wage basis; and worked as such continuously for more than 240 days in a calendar year up to 16.06.2006 when all of sudden his services have been terminated without any rhyme or reason or notice or notice pay in lieu thereof or any retrenchment compensation in violation to the provisions contained in Section 25 F of the Industrial Disputes Act, 1947. The workman has submitted that during his engagement he had been paid on daily, weekly or monthly basis through payment voucher form 25-A. It has been further been alleged by the workman that he worked continuously with the opposite party for a long period of time as Peon/Guard which is perennial nature of job even then the opposite party neither regularized his services nor granted him regular pay scale which amounts to unfair labour practice. Accordingly, the workman has prayed that his termination dated 16.06.2006 be declared illegal and unjustified; and he be reinstated with consequential benefits including full back wages.

4. The management of the New India Assurance Company Limited has filed its written statement, denying the claim of the workman; wherein it was submitted that the workman was never appointed on regular basis with the opposite party; rather he was engaged on 05.01.1990 as casual labour, intermittently by the management as per requirement as and when needed. It has been specifically pleaded the period of engagement of the workman was between 05.01.1990 to 01.12.1995 as per requirement and he was paid accordingly; but he did not complete 240 days in a year preceding the alleged date of disengagement. It is also submitted by the management that the services of the workman were availed as casual labour and not as Peon/Guard as per need and his disengagement when no work is available does not amount to retrenchment under provisions contained in Section 2 (oo), therefore, there was no requirement of compliance of provisions of Section 25 F of the Industrial Disputes Act, 1947 in the present case. . Accordingly, the management has prayed that the claim of the workman be rejected being devoid of any merit.

5. The workman has filed its rejoinder wherein apart from reiterating the averments already made in the statement of claim he has submitted that earlier his services were terminated orally on 5.7.1996; but when he raised an industrial dispute before Deputy Labour Commissioner, UP, Faizabad Region, Faizabad he was re-engaged in his work and thereafter was again terminated 'orally' w.e.f. 16.06.2006.

6. The workman has filed photocopy of the following documentary evidence in support of his claim:

- (i) Experience certificate dated 21.10.1990, paper No. 6/2.
- (ii) Application dated 19.06.96 to appoint workman, paper No. 6/3.
- (iii) Letter dated 04.03.98, paper No. 6/4.
- (iii) Notice dated 01.06.2001 of Regional Dy. Labour Commissioner, Faizabad, paper No. 6/5.
- (iv) Information dated 01.08.2001 of Conciliation Officer/Asstt. Labour Commissioner, paper No. 6/6.
- (v) UPC dated 10.03.2003, paper No. 6/7.
- (vi) Legal Notice dated 20.11.2002, paper Nos. 6/8, 6/9.
- (vii) Application addressed to Branch Manager dated 06.01.2009, paper Nos. 6/10, 6/11.

In rebuttal, the management has filed photocopy as well as original of payment voucher, 'Form A', paper Nos. 18/5 to 18/99 (photocopy) and paper Nos. 20/1 to 20/5.

The workman has examined himself whereas the management examined Shri Shyam Sunder Pandey, Branch Manager in support of their case. The parties availed opportunity to cross-examine the each other's witnesses apart from putting oral arguments as well as written arguments.

7. Heard the authorized representatives of the parties and perused evidence on record.

8. The authorized representative of the workman has contended that the workman was initially appointed as Peon/Guard with the opposite party on 05.01.1990 and worked as such up to 16.06.2006 continuously; but his services have been terminated by the management without assigning any reason or retrenchment compensation. It is also contended by the workman that since he worked for more than 240 days in a calendar year, therefore, the management was duty bound to comply with the provisions contained in the Section 25 F of the Industrial Disputes Act, 1947 before termination of his services; and accordingly, the workman is entitled for reinstatement for non-compliance of mandatory provisions of Section 25 F of the Act. He has relied on Director, Fisheries Terminal Division vs. Bhikubhai Meghajibhai Chavda 2010 LAB IC 1089.

9. Per contra, the authorized representative of the management has argued that workman was engaged as casual labour and not as a Peon/Guard with the opposite party and his services were availed intermittently as per need as and when the occasion arose between period

05.01.1990 to 01.12.1995, therefore, there was termination of his services at any point of time. It has also been contended by the management that the workman did not complete 240 days' working in the preceding twelve months from the date of alleged termination, therefore, he is not entitled for the relief of reinstatement sought by him. Moreover, it is also submitted that since the workman was engaged on daily wage basis as per requirement, therefore, his engagement ceased on the end of work; hence, there was no 'retrenchment' of his services at any point of time, in as much as there was no need of compliance of provisions of Section 25 F of the Act. The management has relied on following case laws:

- (i) RBI vs S. Mani (2005) 5 SCC 100.
- (ii) Anjala Cooperative Sugar Mills vs Sukhraj (2009) 17 SCC 326.
- (iii) BSNL & others vs. Mahesh Chand (2008) 3 SCC 474.
- (iv) Abhilash Vinod Kumar Jain vs Cox and Kings, AIR 2013 SC 1592.
- (v) Chandradhoja Sahoo vs State of Orissa, AIR 2013 SC 367.
- (vi) S.P. Chengat Varaya Naidu vs. Jagannath, AIR 1994 SC 853.

10. I have given my thoughtful consideration to the rival submissions of the authorized representatives of the parties and scanned entire evidence on record in light thereto.

11. The workman has come up with a case that he has been appointed by the opposite party as Peon/Guard and has been paid accordingly on daily, weekly and monthly basis. It is also his case that he worked for more than 240 days in a calendar year; even then the management terminated his services 'orally' without complying with the mandatory provisions of Section 25 F of the Industrial disputes Act, 1947. Moreover, the workman has submitted that he has been appointed on 05.01.1990; but he has not filed any reliable documentary evidence regarding his appointment i.e. any appointment letter. Likewise he has not corroborated his case that he worked upto 16.06.2006 by any reliable documentary evidence, such as payment voucher, attendance sheet etc., in support of his working detail. However, the workman has relied on photocopy of experience certificate dated 21.10.1990, purported to be issued by the Medical Officer, Kewtahi, Faizabad, which is regarding his working with the opposite party from 05.01.90 to 21.10.90 only as daily wagger on wage rate @ Rs. 16/- per day. It is also the case of the workman that once the management had earlier terminated his services on 05.07.1996; but when he raised an industrial dispute before Dy. Labour Commissioner, UP, Faizabad he was taken back into the services and was terminated again 'orally' on 16.06.2006.

12. The management of the New India Assurance Company, rebutting the claim of the workman has come up with a clear cut case that the workman had never been appointed by the Company in any capacity rather his services have been availed intermittently between period 05.01.1900 and 01.12.1995 as and when required and his services came to an end with the completion of task, as such, there was no retrenchment or termination of the workman. The management has also come forward with a specific case that the onus is on the workman to prove this fact that he actually worked for 240 days in 12 preceding months from the date of alleged termination.

13. The workman in his cross-examination has stated that his name was not sponsored by the Employment Exchange against any advertisement. He admitted that he was paid on daily rate basis @ Rs. 16/- per day for the duration he worked. He further admitted that he did not file any evidence regarding 240 days' working before this Tribunal. Moreover he also admitted that he worked up to 05.07.2006 and did not work thereafter.

On the contrary, the management witness, Shri Shyam Sunder Pandey, Branch Manager has stated that the services of the workman were availed during period 1990-95 as and when required for fetching water from outside. He also stated that for filling the vacancy of Peon, the vacancy is notified by the Regional Office and names are called from Employment Exchange. The panel is framed for interviewing the candidates; and after interview the report is submitted to the Regional Office, which issues appointment letter.

14. The workman has filed photocopy of the numerous documents which included his work experience certificate and other representations, less any appointment letter or payment details received from the opposite party, as claimed by him in his statement of claim. It is also the case of the workman that his services have been terminated on 16.06.2006 in utter violation of the provisions of Section 25 F of the Act. In Surenderanagar Panchayat and Another v. Jethabhai Pitamberbhai 2005 (107) FLR 1145 (SC) Hon'ble Apex Court came to the conclusion that the workman could be entitled for the protection of section 25-F of the Industrial Disputes Act, 1947 provided he is successful in establishing the fact that he had been in employment with the employer for a period of 240 days uninterruptedly. It was held by the Hon'ble Supreme Court that in such cases, the scope of the enquiry before the Labour Court was confined only to 12 months preceding the date of termination to decide the question of the continuous service for the purpose of Section 25-F of the Industrial Disputes Act, 1947. Further, Hon'ble Apex Court has observed as under:

"The claimant, apart his oral evidence has not produced any proof in the form of receipt of salary or wages for 240 days or record of his appointment

or engagement for that year to show that he has worked with the employer for 240 days to get the benefit under section 25-F of the Industrial Disputes Act. It is now well settled that it is for the claimant to lead evidence to show that he in fact worked for 240 days in a year preceding his termination.”

The above case law strengthens the case of the management that the onus is on the workman to lead evidence to the effect that he was actually in the employment of the opposite party in the preceding twelve months from the date of his alleged termination i.e. 16.06.2006 and received payment accordingly.

15. Admittedly no appointment letter was issued to the workman. However, from the voucher, Form-A, filed by the management it is evident that the workman was paid on daily rates for executing miscellaneous work i.e. filling water and cleanliness etc.. Although the workman in his statement of claim has made a specific pleading that he has been appointed as Peon/Guard; but failed to corroborate his pleadings by cogent evidence to the effect that he ever underwent the regular selection procedure as stated by the management witness, Shri Shyam Sunder Pandey during his cross-examination. There is no iota of evidence to show that the vacancy of Peon was ever notified by the Regional Office or names were called from the Employment Exchange or the name of the workman was sponsored by the Employment Exchange and he was interviewed by the Panel and resultantly any appointment letter was ever issued to the workman. However, the workman himself has admitted that no vacancy was advertised and his name was sent by the Employment Exchange.

The workman in para 8 of his statement of claim as well as in para 7 of his affidavit before this Tribunal has made a very specific pleading that he has been terminated on 16.06.2006; but during his cross-examination he has stated that he worked up to 05.07.2006 and not thereafter. This goes to put his pleading into a controversy as to what is the actual date of his termination. The date of termination motioned in the order or reference whereby the present industrial dispute has been referred to this Tribunal, is 16.06.2006; and this tribunal has to answer the schedule of reference, referred to it, therefore, the matter is taken up on merits taking the date of termination as 16.06.2006. The workman has not produced any payment voucher for the relevant period or any other documentary evidence to prove this fact that he was paid salary by the management and he actually worked for 240 days in a year preceding the date of alleged termination i.e. 16.06.2006.

16. It is well settled that if a party challenges the legality of order the burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the court must fail. In the present case,

burden was on the workman to set out the grounds to challenge the validity of the oral termination; and to prove that the termination was illegal. It was the case of the workman that he had worked for more than 240 days in each calendar year. This claim has been denied by the management; therefore, it was for the workman to lead evidence to show that he had, in fact, worked for 240 days in the year preceding his alleged termination. In *Range Forest Officer vs S.T. Hadimani* (2002) 3 SCC 25 Hon'ble Apex Court has observed as under:

“It was the case of the claimant that he had so worked but this claim was denied by the appellant. It was then for the claimant to lead evidence to show that he had in fact worked for 240 days in the year preceding his termination. Filing of an affidavit is only his own statement in his favour and that cannot be regarded as sufficient evidence for any court or tribunal to come to the conclusion that a workman had, in fact, worked for 240 days or order or record of appointment or engagement for that period was produced by the workman. On this ground alone, the award is liable to be set aside.”

17. In the present case the workman has stated that he has worked continuously for 240 days in a calendar year, but has not produced any documents in support of his oral evidence nor summoned the documents from the management. From the photocopy of the documents filed by the workman it cannot be inferred that the workman worked for 240 days in 12 months preceding the date of his alleged termination i.e. 15.06.2005 to 16.06.2006; and he received payment for the same from the management of New India Assurance Company. On the contrary the management has well proved its case, by filing the payment vouchers from 28.05.90 to 01.12.1995, that the workman did not work after 01.12.1995. Thus, the workman has utterly failed to discharge the burden that lied upon him and has failed to substantiate his pleading by cogent documentary evidence that he was actually in the services of the management of New India Assurance Company and he worked for 240 days during period 15.06.2005 to 16.06.2006 i.e. last one year preceding the date of his termination; and his services were terminated in violation of Section 25 of the I.D. Act, 2005, without giving him any notice or notice pay in lieu thereof or any retrenchment compensation.

18. Mere pleadings are no substitute for proof. Initial burden of establishing the fact of continuous work for 240 days in a year, preceding the date of alleged termination, is on the workman but he has failed to discharge the same. There is no reliable material for recording findings that the workman had worked more than 240 days in the preceding year from the date of his alleged termination and the alleged unjust or illegal order of termination was passed by the management.

19. Accordingly, the reference is adjudicated against the workman, Ram Avtar; and I come to the conclusion that the workman is not entitled to any relief.

20. Award as above.

LUCKNOW

11th November, 2014.

RAKESH KUMAR, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3043.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एसोसिएटेड स्टोन इंडस्ट्रीज (कोटा) लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जयपुर के पंचाट (संदर्भ संख्या 81/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-29012/44/2012-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2012) of the Central Government Industrial Tribunal/Labour Court, Jaipur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Associated Stone Industries (Kota) Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-29012/44/2012-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, JAIPUR

Presiding Officer : Sh. Bharat Pandey

I.D. 81/2012

Reference No. L-29012/44/2012-IR(M)
dated: 17.9.2012

Shri Laxminarayan
S/o Shri Maganlal
Caste-Koli, R/o Village Kumbhkot
Tehsil Ramganjmandi, Kota.

V/s.

The President
Associated Stone Industries (Kota)
Ltd., Ramganjmandi, Kota.

Present :

For the applicant : Sh. N.K.Songara, Advocate

For the non-applicant : Sh. Rupin K.Kala, Advocate

AWARD

20.9.2014

1. The Central Government in exercise of the powers conferred under clause (d) of Sub-section 1 & 2(A) of Section 10 of the Industrial Disputes Act 1947 has referred the following Industrial dispute to this tribunal for adjudication:-

“Whether the action of the management of M/s Associated Stone Industries (Kota) Limited, Ramganj Mandi, Kota in terminating the services of Shri Laxminarayan S/o Shri Maganlal w.e.f. 31.5.2011 is legal & justified? What relief the workman is entitled to and from which date?”

2. According to statement of claim applicant Sh. Laxminarayan was appointed by opposite party on 4.4.1985 as Karigar in the Mine of the opposite party. He worked continuously with opposite party till retirement. On 12.5.2011 a notice was issued by opposite party to the applicant stating that he has attained the age of 58 years hence, according to the rules of the company he is retired on 31.5.2011 after completion of the duty for the day i.e. 31.5.2011.

3. It has been further alleged that at the time of entry into the service of the opposite party the age of the applicant was recorded to be 20 years & the age of 20 years was recorded by the opposite party in the wage slip of the applicant for the financial year 1984-85. In the wage slip for the financial year 2011-12 the age of the applicant has been noted as 46 year thus, he has been retired at the age of 46 whereas the age of the retirement should be 58 years.

4. After receipt of the letter of the opposite party dated 12.5.2011 (Ex-1) regarding retirement applicant vide his representation dated 26.5.2011 (Ex-2) requested that the act of opposite party in retiring the applicant at the age of 46 is illegal. The applicant has alleged that the act of retirement of the opposite party is against the law & it comes within the definition of retrenchment.

5. Further in para 7 of the statement of claim the applicant has alleged that he further moved a representation dated 7.6.2011 (Ex-3) to the President of company against the retirement indicating that his date of birth in school certificate is 3.6.1970, hence, his representation may be considered to take him back on duty. In Ration Card no.1114 dated 9.12.2006 (Ex-4) the age of the applicant is recorded as 35 year according to which on 31.5.2011 the age of the applicant is 40 year which is not the fit age for retirement hence, an industrial dispute u/s 2-A of Industrial Disputes Act, 1947 has emerged between the employer & the applicant. It has

been further alleged that provision of section 25-F & section 25-N has not been complied & before retrenchment from the service neither notice was given nor any payment was made in lieu of notice. No payment on account of compensation was made. The opposite party failed to publish the seniority list hence, order dated 31.5.2011 is illegal & fit to be set aside with all financial benefits & continuity of service.

6. In reply to the claim presented on 5.5.2014 by the opposite party it has been alleged that applicant was appointed on 4.4.1985 as daily wage labourer in mine of the opposite party situated at Laxmipura. It has been admitted that w.e.f 4.4.1985 till the retirement applicant was in the service of the opposite party. It has been further alleged that in form no.4 the date of birth of the applicant is 1.6.1953 which is issued from the office of the Provident Fund & the applicant has been retired on the basis of completion of 58 years age based on above date of birth & according to the rules of the company. It has been alleged that statement of the applicant in the claim that his age was recorded at the time of entry as 20 year is wrong. It has also been alleged that at the time of joining the service applicant had not filed any certificate regarding his birth & he had alleged his age to be 32 year & wage slip is not the valid document to ascertain the age of the applicant. The retirement of the applicant has taken place according to his age recorded in form no.4 & in this matter statement of the applicant is wrong that he had been retired at the age of 48 years.

7. Para 5 of the statement of claim has been specifically denied that applicant had made any representation dated 26.5.2011 before the opposite party marked as Ex-2. Para 6,7,8,9,10,11 of the statement of claim has been specifically denied & alleged to be wrong. It has been specifically denied that applicant has been retrenched from the service & has been alleged that after completion of the age of 58 years he has been retired according to the orders & rules of the company. It has been further alleged that Ration Card is not the proper & valid document for assessment of age of a person & his 40 years age recorded in ration card is of no benefit to him. It has been further alleged that his retirement is not illegal & no dispute arise u/s 2-A of Industrial Disputes Act, 1947. The applicant was retired on his completion of the age of 58 years & contention of the applicant is wrong that he has been illegally retired hence, section 25-F & 25-N of the Industrial Disputes Act, 1947 is not attracted & there was no requirement of giving notice to the applicant in the matter of retirement & there was any necessity of preparation of seniority list. There is no retrenchment in the case of applicant & he has been retired from the service hence, applicant is not having any cause of action for bringing the application against the opposite party. Payment slip is not the valid document for

assessment of the age of applicant for the purpose of retirement. According to the rules of the company the age of superannuation in case of applicant is 58 years hence, claim of the applicant is not maintainable & deserves to be dismissed.

8. After filing of above mentioned written statement by the opposite party case was fixed for filing of rejoinder by the applicant & documents by the parties on 7.7.2014. On 7.7.2014 there was advocate's strike hence, case was fixed on 9.7.2014. On 9.7.2014 & thereafter there was indefinite advocate's strike which ended on 15.9.2014. On 15.9.2014 applicant was present & opposite party was absent & on applicant's request case was fixed for disposal in Lok-Adalat on Saturday, 20.9.2014.

9. On 20.9.2014 learned representative of applicant Sh. Narendra Kumar Songara, Advocate appeared with applicant Sh. Laxminarayan Koli in Lok-Adalat from the side of applicant & learned representative of opposite party Sh. Rupin K. Kala, Advocate appeared with Sh. Ramswaroop Sharma S/o Sh. Devi Shankar Sharma (Assistant General Manager, Personnel & Administration) on behalf of opposite party. Both the parties were identified before the tribunal by their respective representative. A term of compromise was presented by both the parties along with an application praying to pass the award in terms of compromise filed by both the parties. Term & conditions of compromise was read over & explained to the parties. On enquiry by the Tribunal about terms of compromise parties acknowledged that terms of compromise has been made & entered into voluntarily without pressure. According to the terms of compromise applicant Sh. Laxminarayan Koli received before the tribunal a cheque of Rs.20,000/- & signed the acceptance of original cheque as token of receipt of the cheque on photocopy of the cheque. The receipt is available on the record of the file. The terms of compromise with application moved by parties & order passed on application respectively reads as under:-

Annex-A

समक्ष केन्द्रीय सरकार औद्योगिक न्यायाधिकरण (के.)

एवं श्रम न्यायालय, जयपुर

केस नं. — : सी.जी.आई.टी. 81/2012

लक्ष्मीनारायण

बनाम

एसोसिएटेड स्टोन इण्ड.(कोटा) लिमिटेड

मान्यवर,

उक्त उनवान का रेफरेन्स केस माननीय न्यायालय के समक्ष चल रहा है। तथा जिसमें आज तारीख पेशी नियत है। इस केस में दोनों पक्षों के मध्य समझौता हो

गया हैं तथा bipartite समझौते के फलस्वरूप प्रार्थी पक्ष को अपेक्षित राशि रु. 20,000/- (अक्षरे बीस हजार रुपये मात्र) का भुगतान जर्ज चेक नं. 003601 दिनांक 28.6.2014 शाखा एच.डी.एफ.सी. बैंक, रामगंजमण्डी से कर दिया गया हैं समझौते कि प्रति साथ में संलग्न है।

अतः उक्त उनवान के मुकदमें में समझौते के आधार पर सहमति A-ward पारित करने की कृपा करें।

दिनांक : 07.07.2014

अप्रार्थी नियोजक प्रार्थी
हस्ताक्षर अपठनीय हस्ताक्षर पठनीय
हस्ताक्षर अपठनीय लक्ष्मीनारायण
दि. 20-9-2014
लक्ष्मीनारायण

1. श्री आर.एस.शर्मा, सहायक महाप्रबन्धक (कार्मिक एवं प्रशासन) एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लि., रामगंजमण्डी जिला कोटा (राज.) पहचानकर्ता हस्ताक्षर पठनीय
1. श्री लक्ष्मीनारायण आत्मज श्री मगनलाल, गांव एवं पोस्ट कुम्भकोट तहसील हस्ताक्षर अपठनीय रामगंजमण्डी जिला कोटा (राज.) पहचानकर्ता

Annex-B

क्रमांक 8798 दिनांक 2.7.14 दिनांक : 27.06.2014

नोटेरी-स्टैम्प वृत्ताकार

समझौता-पत्र

फार्म-“एच”

(देखिये नियम 58)

औद्योगिक विवाद अधिनियम, 1947 की धारा 12(3) के अन्तर्गत श्री लक्ष्मीनारायण आत्मज श्री मगनलाल एवं एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लिमिटेड, रामगंजमण्डी प्रबन्धकों के मध्य वार्ता के दौरान दिनांक 27.06.2014 को सम्पन्न समझौता :-

प्रबन्धक प्रतिनिधि :-

1. श्री आर.एस.शर्मा, सहायक महाप्रबन्धक (कार्मिक एवं प्रशासन) एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लि., रामगंजमण्डी

यूनियन प्रतिनिधि :-

1. श्री लक्ष्मीनारायण आत्मज श्री मगनलाल गांव एवं पोस्ट कुम्भकोट तहसील रामगंजमण्डी, जिला कोटा (राज.)

विवाद का संक्षिप्त विवरण (Short recitals of the case)

श्रमिक श्री लक्ष्मीनारायण आत्मज श्री मगनलाल कटर खान लक्ष्मीपुरा को प्रबन्धक मै. एसोसिएटेड स्टोन इण्डस्ट्रीज (कोटा) लिमिटेड द्वारा सेवाओं से 58 वर्ष आयु पूर्ण हो जाने पर दिनांक 31.05.2011 से सेवानिवृत्त किया गया था परन्तु प्रार्थी श्रमिक द्वारा इसे अकारण अस्वीकार करते हुये सेवानिवृत्ति का विवाद लगाया जो अभी केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के समक्ष जेरकार हैं। उक्त संदर्भ में दोनों पक्षों के मध्य काफी गहन विचार विमर्श हुआ तथा दोनों के मध्य निम्न शर्तों पर समझौता सम्पन्न हुआ।

समझौते की शर्तें

1. यह कि प्रार्थी श्री लक्ष्मीनारायण आत्मज श्री मगनलाल का सेवानिवृत्ति का विवाद जो माननीय केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय जयपुर के समक्ष लम्बित हैं उसे समाप्त करने के बदले में प्रबन्धक उसे बतौर एक्सग्रेसिया राशि रुपये 20,000/- (अक्षरे बीस हजार रुपये मात्र) का भुगतान जर्ज चेक नं. 003601 दिनांक 28.6.014 H.D.F.C. बैंक से कर देंगे।

हस्ताक्षर पठनीय प्रार्थी हस्ताक्षर नोटेरी अपठनीय व लक्ष्मीनारायण नोटेरी स्टैम्प आयताकार

नोटेरी-स्टैम्प वृत्ताकार

2. दोनों पक्ष सहमत हैं कि माननीय न्यायालय औद्योगिक अधिकरण एवं श्रम न्यायालय के समक्ष दोनों पक्ष उपस्थित होकर विवाद समाप्ति हेतु अलग से प्रार्थना-पत्र प्रस्तुत कर विवाद समाप्त करा लेंगे।

3. यह कि इस समझौते के फलस्वरूप प्रार्थी का अब नौकरी से सेवानिवृत्ति संबंधी कोई विवाद शेष नहीं रहा हैं तथा प्रार्थी पुनः नौकरी में Reinstatement के अधिकार का भी स्वतः परित्याग करता है। दोनों पक्ष सहमत हैं दोनों पक्ष इस समझौते को fair व reasonable मानते हैं।

4. यह कि भविष्य में इस बारे में कोई विवाद अन्य किसी प्राधिकारी/न्यायालय के समक्ष चल रहा होगा तो वह इस समझौते के फलस्वरूप समाप्त समझा जावेगा। उभय पक्ष सहमत हैं।

5. यह कि प्रार्थी का अब प्रबन्धकों से full and final settlement हो गया है। तथा कोई बकाया शेष नहीं है प्रार्थी को पी.एफ. व ग्रेज्युटी का भुगतान अलग से देय होगा।

हस्ताक्षर प्रबन्धक प्रतिनिधि हस्ताक्षर श्रमिक प्रतिनिधि

हस्ताक्षर अपठनीय

हस्ताक्षर पठनीय

लक्ष्मीनारायण

1. श्री आर.एस.शर्मा,
सहायक महाप्रबन्धक
(कार्मिक एवं प्रशासन)
एसोसिएटेड स्टोन
इण्डस्ट्रीज (कोटा) लि.,
रामगंजमण्डी जिला कोटा
(राज.)

1. श्री लक्ष्मीनारायण
आत्मज श्री मगनलाल
गांव एवं पोस्ट कुम्भकोट
तहसील
रामगंजमण्डी जिला कोटा
(राज.)

गवाह : —

हस्ताक्षर अपठनीय
श्री नानगराम S/o
रामनारायण
जति कोली निवासी
वार्ड न. 2 सुकेत

Identified by me &
Signed Before me
हस्ताक्षर अपठनीय

हस्ताक्षर नोटेरी अपठनीय व
नोटेरी स्टैम्प आयताकार

20.9.14 लोक अदालत

पत्रावली आज दिनांक 20—9—14, शनिवार को लोक अदालत में पेश हुई। प्रार्थी श्री लक्ष्मीनारायण कोली अपने विद्वान अधिवक्ता श्री नरेन्द्र कुमार सोनगरा एडवोकेट के साथ उपस्थित हैं। विपक्षी की तरफ से सहायक महाप्रबन्धक (कार्मिक एवं प्रशासन) विपक्षी के विद्वान अधिवक्ता श्री रूपिन के. काला एडवोकेट उपस्थित हैं। उभयपक्ष के विद्वान अधिवक्ता ने पक्षकारों की पहचान की।

उभयपक्ष की तरफ से आवेदन के साथ सुलहनामा प्रस्तुत किया गया और आवेदन के माध्यम से प्रार्थना की गयी कि आवेदन के साथ संलग्न सुलहनामे के आधार पर मुकदमें में एवार्ड पारित किया जाय। आवेदन पर उभयपक्ष के विद्वान अधिवक्तागण को सुना। सहमति के आधार पर आवेदन स्वीकार की जाती है।

सुलह की शर्तें उभयपक्ष को पढ़कर सुनायी एवं समझायी गयी, उभयपक्ष द्वारा सुलह की शर्तें स्वेच्छया स्वीकार की गयी। श्री लक्ष्मीनारायण को मूल चेक 20,000/— (रुपये बीस हजार से सम्बन्धित) न्यायालय के समक्ष प्रदान किया गया जिसे उन्होंने प्राप्त किया और पूछने पर न्यायालय के समक्ष स्वीकार किया कि उन्होंने बिना दबाब के 20,000/— रुपये के एवज में सुलह किया है। अतः मुकदमा सुलहनामा के आधार पर निर्णित

किया जाता है। सुलहनामा दिनांकित 27.6.14/20.9.14 पंचाट का अंश होगा।

हस्ताक्षर अपठनीय

(भरत पाण्डेय)

पीठासीन अधिकारी

10. In view of above, the award is passed in terms of memorandum of settlement dated 20.9.2014 & 27.6.2014/20.9.2014 Annexure-A & Annexure-B respectively. Both the annexure shall form part of the award.

11. Award as above.

BHARAT PANDEY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3044.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कोलकाता के पंचाट (संदर्भ संख्या 33/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30012/69/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2014) of the Central Government Industrial Tribunal/Labour Court, Kolkata now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30012/69/2013-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT KOLKATA**

Reference No. 33 of 2014

Parties : Employers in relation to the management
of M/s. S.B. Engineering

AND

Their workmen

Present : Justice Dipak Saha Ray, Presiding Officer

Appearance:

On behalf of the : None
Management

On behalf of the : Mr. Partha Mukherjee, Ld. Counsel
Workmen

State: West Bengal

Industry: Petroleum

Dated: 5th November, 2014

AWARD

By Order No.L-30012/69/2013-IR(M) dated 31.03.2014 the Government of India, Ministry of Labour in exercise of its powers under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication:

“Whether the action of the management of M/s. S.B. Engineering contractor of Indian Oil Corporation Ltd. (Marketing Division), Haldia Oil Installation is justified by terminating the service of 3(three) No. of workmen namely Shri Nandalal Manna, Sri Arun Kumar Pal and Sri Tapan Kumar Midya vide letter dated 2-7-2014 is legal and/or justified? If not, what relief the workmen are entitled to?”

2. When the case was taken up on 30.10.2014 Ld. Counsel for the workmen filed an application stating that in the self-same cause of action another reference case being Reference No. 54 of 2013 was also initiated between the same parties, which was still pending before this Tribunal. In view of the same Ld. Counsel for the workmen did not want to proceed with the instant case.

3. Considering the above facts and circumstances and in view of the submission of the Ld. Counsel appearing for the workmen, I do not find any reason to proceed with the case further as no fruitful purpose will be served in keeping the matter pending.

4. In view of the above facts and circumstances the present reference is disposed of by passing a “No Dispute Award”.

Dated, Kolkata

The 5th November, 2014.

Justice DIPAK SAHA RAY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3045.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिंदुस्तान पेट्रोलियम कॉरपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर के

पंचाट (संदर्भ संख्या 112/2002) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30012/3/2002-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 112/2002) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hindustan Petroleum Corporation Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30012/3/2002-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT, JABALPUR**

NO. CGIT/LC/R/112/02

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Chhotelal Shah,
S/o Shri R.S.Shah,
Class 2(2), Mahavir Digamber Jain School,
Kalgaon, Satna (MP) ...Workman

Versus

General Manager (West Zone),
Hindustan Petroleum Corp Ltd.,
R&C, Building,
IInd floor, Sir J. J. Rd., Viakula,
Mumbai ...Management

AWARD

Passed on this 13th day of October, 2014

1. As per letter dated 1-8-02 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-30012/3/2002-IR(M). The dispute under reference relates to:

“Whether the action of the management of Hindustan Petroleum Ltd. Mumbai in discharging Shri Chhotelal Shah, Ex Clerk-cum-Typist from service w.e.f. 26-7-01 is legal and justified? If not, to what relief the workman is entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party workman submitted statement of

claim at page 3/1 to 3/2. Case of workman is that he was appointed as clerk-cum-typist by General Manager, HPCL vide order dated 8-11-95. That he was permanent employee completed 5 years service. His services were terminated as per order dated 26-7-01. That his services were terminated during pendency of dispute under Section 33(C)(2) of I.D.Act. The termination is illegal. Workman further submits that termination of his service is in violation of Section V(B) of I.D.Act. He was not given three months notice or pay in lieu as provided under Section 25 N of I.D.Act. The termination of his service without obtaining prior permission from appropriate Government is illegal retrenchment under Section 25N(1)(B) of I.D.Act. That without arranging enquiry by the 3rd party the appropriate Government or the specified authority is violation of Section 25 N of I.D.Act. On such ground, workman prays for his reinstatement with backwages.

3. IInd party filed Written Statement at page 5/1 to 5/8. Claim of workman is denied. It is submitted that HPCL is undertaking of Government of India. The corporation is engaged in refining, storage and distribution of petroleum and petroleum products. Workman was appointed as clerk-cum-typist at Satna IRD from 1-12-1995. He was required to carry out clerical duties, details given in Para-4. That workman refused to carry out job assigned to him without justification. He refused to carry out the jobs. Workman was verbally advised and counseled for carrying out jobs assigned. However workman despite of oral counseling by Supervisor did not performed jobs. He was instructed in writing by Superior issuing various letters, details given in Para-6. Written instructions given to workman were displayed on notice board. Workman refused to prepare documents regarding movement of products on BPC account and also not performed the duties assigned to him. Workman had admitted Letter dated 18-5-98 to Bhopal Regional Office threatening to fight with his superior authorities. Vide letter dated 23-5-98, workman informed depot Manager giving report for duty but will not perform his duties. Workman was insisting for payment of salary cheques. He was also asking why he was not suspended or terminated.

4. Workman was issued notice dated 8-6-98. Depot Manager issued letter dated 11-6-98 about misconduct on part of workman. The attendance of workman for June 98 is also submitted. Chargesheet was issued to workman on 14-7-98, reply submitted by workman was found unsatisfactory. Shri S.W.Kiro was appointed as Enquiry Officer, T. Dandapani was appointed as Presenting Officer. Enquiry was conducted on various dates. Details given in para-21. Workman did not cross-examined witnesses of management. He given statement in his defence but did not lead any evidence. It is submitted that Enquiry Officer submitted report on 8-3-01 holding workman guilty of charges. Enquiry Report was put up before Competent

Authority alongwith documents. Report of Enquiry Officer was accepted. The services of workman were terminated for proved charges of insubordination, disobedience, striking work, use of abusive language, sleeping while on duty, refusal to accept order etc. workman was paid amount Rs. 6993/- towards one months wages in lieu of notice period. IInd party submits that amount of Rs. 1,08,780.96 was paid by cheque on 27-11-2001 to the workman. Workman has committed gross misconduct of indiscipline, insubordination, refusal to work. On such ground, IInd party submits that termination of workman is legal.

5. IInd party did not dispute that workman was appointed as clerk on 1-12-93. Other adverse contentions are denied. It is submitted that chargesheet was issued to workman. Enquiry was conducted following principles of natural justice. Workman was discharged from service vide order dated 26-7-01 after report of Enquiry Officer. The action of discharge of workman is legal. Such punishment was imposed for proved misconduct.

6. Workman filed rejoinder at page 6/1 to 6/3 reiterating his contentions in statement of claim.

7. Enquiry conducted against workman is found legal as per order dated 8-8-2013. Considering pleadings on record and findings on Enquiry, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the charges alleged against workman are proved from evidence in Enquiry proceedings? | In Affirmative |
| (ii) Whether punishment of discharge from service is proper and legal? | In Affirmative |
| (iii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

8. Workman is challenging order of his discharge on the ground that his services are terminated during pendency of proceeding under Section 33(C)(2) in violation of Section 25 N of I.D.Act, enquiry conducted against workman is found legal. Workman has not adduced evidence on other issues. The documents produced by workman Exhibit W-1 is appointment letter dated 8-11-95 on post of clerk. Exhibit W-2 is order of punishment passed by Disciplinary Authority discharging workman from service. W-3 is performance appraisal Form. W-4 is letter given by workman that he will report to office but will not perform his duties. W-5 is document advising workman for performing his duties shown in the document. Other documents produced on record are not proved by valid evidence. Workman in his

cross-examination says that BPCL and HPCL are at Satna in the same office. Mr. Dandapani had not given order in writing to him for staying idle. Shri Dandapani was working as Dy. Manager and the Depot Regional Manager, Satna and Bhopal were his superiors. Workman in his further cross-examination said that he had not requested Shri M. M. More. he written 102 letters. Letters are not produced by him. Handing over taking over was not done by Shri More. He denies that Exhibit M-2 to M-42(a) were given to him about his work and he refused to accept. He received those letters. He admitted documents Exhibit M-43 to M-51 letters given to him. Chargesheet produced at Exhibit M-53. He had replied M-54 to the chargesheet.

9. Evidence of workman cannot disprove the charges against him. When enquiry is found legal, the evidence in Enquiry Proceedings needs to be considered for deciding whether the charges are proved or not.

10. Management filed affidavit of witness Kero but witness remained absent. He could not be cross-examined. Both parties not adduced evidence on other issues. The documents of Enquiry Proceedings are produced at Exhibit M-16. Exhibit M-2 is copy of leave application, M-3 is notice given by workman to report office but will not perform duties. M-4 is application submitted by workman to Dy. Manager regarding non-payment of house rent. M-10 is letter given by Depot Manager to workman. M-5,6 are copies of leave applications. Exhibit M-7 is strike notice given by workman. Exhibit M-11,12,13,14 are application submitted by workman for different grounds. M-8 is letter given by workman to Manager in the matter of denial of pay on ground of no work no pay. Exhibit M-16 shows statements recorded by Enquiry officer of the witnesses. The statements of workman was also recorded separately. Any of the witnesses of management were not cross-examined. The evidence in Enquiry Proceedings remained unchallenged. That workman had given threats, he was not attending duties. He had given letter in writing that he will attend office but will not do any work proves the charges alleged against him. Therefore I record my finding in Point No.1 in Affirmative.

11. Point No.2- Enquiry conducted against workman is not legal. The statements in Enquiry Proceedings of management witnesses remained unchallenged. The statement of witnesses and documents produced in enquiry shows that workman had disobeyed orders of superiors, he was not performing jobs assigned to him. Workman had assaulted Depot Manager. Under such circumstances, punishment of discharge from service of workman cannot be said disproportionate or exorbitant. Workman has submitted notes of argument. I may say that the notes of argument submitted by workman donot cover the points in dispute. Rather notes are submitted on

different points for payment of salary with interest. Claim for compensation, violation of Section 25-N, discharge of service during pendency of proceeding under Section 33(C)(2). Statement of claim and evidence of workman are not specific which proceeding under Section 33(C)(2) of I.D.Act was pending and how the order of his discharge suffers from it. Workman has alleged illegal retrenchment for violation of Section 25-N. under Section 2(oo), retrenchment doesnot include termination of service of workman as punishment by way of disciplinary action. Therefore the contentions of workman about violation of Section 25-N of I.D.Act cannot be accepted. Workman is discharged from service after report of Enquiry Officer and charges against workman found proved.

12. Workman himself participated in reference proceeding but he was unable to comprehend the dispute between parties. That enquiry is conducted against workman. The evidence of management witness was recorded, workman failed to cross-examine any of the management's witnesses. The charges of insubordination, disobedience, striking work, use of abusive language, threatening the Depot Manager are no explained in the notes of argument submitted by workman. Rather workman has pressed why the dispute was not decided within prescribed time lime. Considering evidence in Enquiry Proceedings and charges proved against workman, the punishment of discharge from service imposed against workman cannot be said illegal.

13. Learned counsel for management Shri A. K. Shashi relied on ratio held in

Case of Tarun Chatterjee and H.S.Bedi reported in AIR 2010 SC142 their Lordship considering delinquent did not present himself except on three days waived his right to cross-examine witnesses by absenting himself on grounds that he was not permitted legal representation nor was furnished with documents or list of evidences upon which management was relied. Their Lordship held there was no violation of principles of natural justice, further delinquent was dismissed earlier on similar grounds but exonerated on his request. Thus order of dismissing him from service was not found harsh.

In present case, the enquiry conducted against workman is found legal as per order dated 8-8-2013. I may repeat that any of the witnesses of management before Enquiry Officer was not cross-examined. Therefore punishment of discharge imposed for proved charges against workman cannot be said exorbitant or disproportionate. I find no reason to interfere in the order of punishment. As such I record my finding in Point No. 2 in Affirmative.

14. In the result, award is passed as under:-

- (1) The action of the management of Hindustan Petroleum Ltd. Mumbai in discharging Shri Chhotelal Shah, Ex Clerk-cum-Typist from service w.e.f. 26-7-01 is legal.
- (2) Workman is not entitled to any relief prayed by claimant.

R. B. PATLE, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. लिमिटेड के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 04/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30011/6/2009-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2009) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of O.N.G.C. Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30011/6/2009-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Sri L. C. Dey, M.A., LL.B.,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

In the matter of an Industrial Dispute between :

The Management Assam Asset, O.N.G.C. Ltd., Eastern Region, Nazira and the Management of Assam Asset ONGC Ltd., Eastern Region, Jorhat.

-Vrs-

Their Workmen represented by the President/General Secretary, ONGC Contractual Labours Union, Sibsagar, Assam.

Ref. Case No. 04 of 2009

APPEARANCES:

For the Management : Mr. G.N. Sahewala,
Sr. Advocate
Mr. T. Das, Advocate

For the Union : Mr. A. Dasgupta, Advocate
Mr. K.M. Haloi, Advocate

Date of Award : 25.09.2014

AWARD

1. This Reference Case has been initiated on an Industrial Dispute raised by the ONGC, Contractual Labour Union, Sibsagar against the Management of ONGC Limited, Assam Asset, Nazira and ONGC Assam-Arakan Basin, Jorhat; which was referred to by the Ministry of Labour and Employment, Government of India under Clause (d) of Sub-section 1 & Sub-section 2(A) of Section 10 of Industrial Dispute Act, 1947 for adjudication vide their Order No. L-30011/6/2009-IR(M); Dated: 09/06/2009.

The Schedule of the Reference is as under:

SCHEDULE

"Whether the action of the management of ONGC Ltd., Assam Asset, Nazira and ONGC, Assam-Arakan Basin, Jorhat in denying to concede to the demand of the union to enhance/increase or revise the prevalent rate of minimum wages relating to the contractual workers under them (As on 01.11.2008) at least at par to any unit of ONGC Ltd. in India (Including Eastern Region) or at least at par to the prevalent rate of wages in the contiguous oil industry, like OIL India/NRL/IOCL(AOD)/BRPL, situated in the State of Assam is justified? What rate of wages should be logical and rational and the contractual workers raised the dispute are thus entitled to?"

2. On receipt of the order of the Ministry as mentioned above, this reference was registered and notices were issued against the concerning parties. Both the Union and the Management of ONGC appeared and contested the proceeding filing their respective claim statement/ additional claim statement and written statement/ additional written statement along with the relevant documents.

3. The case of the Union, in short, is that more than 1,500 contract labourers were working in Sibsagar, Galeki, Lakua, Nazira, Rudrasagar within the district of Sibsagar; and apart from these zones the contract labourers were working in the areas of Jorhat, Borgola, Sarupathar known as Assam and Assam-Arakan Basin of ONGC Limited. The said contract labourers were engaged in non-perennial jobs as per the policy of the ONGC, but

infact, these labourers are engaged in all kinds of perennial jobs of the ONGC and they have been working for a period of 10 to 20 years and 95% of these workers were paid at the rate of Rs. 1,500/- per month. As per section 21 of the contract labour (Regulation and Abolition) Act, 1970, every principal employer shall nominate their representative to be present at the time of disbursement of wages by the contractor and the said representative are to certify the amounts paid as wages. While this procedure has not been followed by the management. Union persistently demanding for proper disbursement of minimum wages, fair wages and other basic amenities as required under contract labour (Regulation and Abolition) Act, 1970 but the management did not pay heed to it. Thereafter the union approached the Hon'ble Minister, Petroleum and Natural Gas, New Delhi and submitted memorandum but nothing has been done.

The Union submitted that the contract labourers of ONGC working in other places in India are getting higher rate of wages than that being paid to the present workman.

They cited the example that in Mumbai the rate of monthly wages payable to the unskilled, semiskilled and skilled workers at the rate of Rs. 5,394/-, Rs. 5,519/- and Rs. 5,644/- for unskilled, semiskilled and skilled worker respectively. Besides, these workers are entitled to D.A and annual increment of Rs. 70/-, Rs.80/- and Rs. 90/- per year respectively. The said wage structure was introduced through a negotiation between the management of ONGC and contract labours in Mumbai. Similar wage Structure was introduced in Chennai. Thus the contract labours of ONGC in Assam Assets Zone and Assam-Arakan Basin Zone are getting Rs.1500/- per month which is far below the prescribed rate of minimum wages payable to the labourers in any State of India. The Union added that the O.I.L., Duliajan pays the wages of contract labourer @ Rs.243/- per day, while the IOC, Guwahati Refinery pays wages @ Rs.133.26, Rs.139.09, Rs.145.09 per day to the unskilled, semiskilled & highly skilled labourer respectively; and the BRPL Refinery, Bongaigaon pays Rs.107/-, 112/-, Rs. 122/- & Rs. 135/- per day to the unskilled, semi-skilled & highly skilled labourers respectively, alongwith canteen allowance @ Rs.2/- per day subject to maximum amount of Rs.50/- per month. The union by filing an additional claim statement stated that it is the obligation of the principal employer to see whether the contract labourers are getting similar wages throughout the establishment for doing similar job but in the present case the contract labourers are not getting more than Rs. 1500/- per month. Although the principal employer i.e. the ONGC assured that it would take proper step for disbursement of wages through cheque but the same is not done. As a result, the contractor are paying far below the rates to be paid to the contract labourers. The principal employer in order to ensure certain wages entered into various settlement from time

to time in Chennai and Mumbai but nothing has been done in Assam Arakan Basin Zone. It is also mentioned that in order to have the jobs entrusted to the present workers as being carried out by regular employees paying at a far below rates of wages and hence, the contract labourers are deprived of their wages as being paid to the contract labourers of other parts of the Country. Thus the contractual workers of ONGC, Assam are working in a pathetic condition & hence prayed for passing award fixing the rate of Minimum wages of the contractual workers working in Assam Asset & Assam Arakan Basin on the basis the corresponding wages being paid by the ONGC Ltd. the other Petroleum Industries with the State of Assam to their contractual workers.

4. The management of ONGC Ltd., Eastern Region, Nazira and Assam Arakan Basin, Jorhat in their W.S. took the plea that the present reference has been made by the Central Government without any authority and power as the issue/demand for hike for revision of minimum rate of wages falls within the purview of the Designated Authority u/s 3 of the Minimum Wages Act, 1948. The Management of ONGC Ltd., Assam and Assam Arakan Basin, Jorhat, has awarded the job contracts to various Contractors namely M/s. Taramoni Mazumdar, Lakhimpur Road, Madhurbondh, Silchar, M/s. North Eastern Drilling Worker Services Co. Pvt. Ltd., Dibrugarh, Assam, M/s. Agragami Contract & Supply Co. Pvt. Society Ltd., Cinamara, Jorhat, M/s. Lakwa Chalapathar, Sibsagar, M/s. Prayojani ONGC Employee consumer Society, Cinamara, Jorhat; M/s. Probui Borah; Khaia Checkgaoti, Jorhat, for the works of shot hole drilling seismic job contract, operation and maintenance of cardwell work over rig, removal of garbage from ONGC colonies, hiring of services for upkeep and maintenance (housekeeping) of Office building, Housekeeping & maintenance of ONGC Guesthouse & Catering Services and Civil contractor respectively; as per the standard term & condition contained in the respective contract. The Contractors are contractually bound to comply with the provision of all laws including labour Laws, Rules, Regulation and Notification issued thereunder from time to time. Further the contractual workers engaged by the respective contractors are being paid not below the prescribed rate of minimum wages fixed by the appropriate government, and the respective contractors being the employer of the contract workers are regularly maintaining the Register of Wages containing receipt of wages. The Management also pleaded that the present reference is bad in law for non-joinder of necessary parties, since the workers are direct employees of various contractors from whom they are getting their wages and all records relating to their engagement and payment of their wages are in the custody of the contractors and hence, all the contractors named above ought to have been impleaded in this case being the necessary parties. It is contended by the Management that the demand for revision of rates of minimum wages is

without any basis and justification under any provision of law and as such, the reference is liable to be rejected. The payment of wages to the contract workers in Mumbai and other places of ONGC have no relevancy for increase in the wages in Assam and the cost of living in Mumbai are higher than the place of Assam like Najira and Jorhat. Therefore, the rate of wages being paid in Mumbai can not be the basis of revision/enhancement/modification in the rate of wages in Assam. It is further mentioned that the contract workers are being paid at least minimum wages by the respective contractors and there have been no written complaint in any Government Authority designated under the relevant law, and the management of ONGC, Assam at Jorhat and Nazira do not have any knowledge about the minimum wages as stated to be paid to the contract workers in other Public Sector Undertakings like IOL, IOC, BRPL, etc. operating in the State of Assam as the ONGC has no concern with the payment of wages to the Contract Workers in other contagious organization. Hence, this can not be a basis of revision/modification in the rate of minimum wages of the contract workers of ONGC in Assam as sought for by the Union.

The management also, by submitting additional W.S., took the plea that the contractor shall be responsible for the payment of wages to each workers employed by him and the principal employer shall nominate a representative duly authorized by him to be present at the time of disbursement of the wages to the contract labourers; and the principal employer shall be liable to make payment of wages in full or unpaid balance due, if not paid the same by the contractor, and to recover the amount so paid from the contractors as per the provision of Contract Labour (Regulation and Abolition) Act, Section 3 of Payment of Wages Act, 1936; but in the instant reference the Union has failed by showing a single instance with documentary evidence about any complaint even made to the Central Labour Authorities of Central Government under the provision of Contract Labour (Regulation & Abolition) Act, 1970. It is also mentioned that the Minimum Wages is fixed by the appropriate government u/s 3 of Minimum Wages Act, 1948 and as such, the issue of hike of Minimum Wages is always in the hands of Central/State Government. The Management denied that the contract workmen are getting daily rates of minimum wages as the contractors were executed containing the relevant clauses which are followed specifically with regard to the payment of wages and other statutory payment/obligation which are being strictly adhered to. The minimum rate of wages payable at Guwahati City in the employment of sweeping and cleaning is Rs.155/- only per day and minimum rate of wages payable in other place at Assam is Rs.124/- per day, and the same way the Circular No.ALL/GF/MWA/2009 dated 12.10.09 issued by the RLC(C), Government of

India, Ministry of Labour and Employment, Kanpur, Ahmedabad prescribed different wage structure of different places like Ahamedabad, Bhavnagar, Rajkoot, Surat, Badadra and the remaining areas of Gujrat. Therefore the demand of the Union for the payment of wages similar to the contract labourers working in Mumbai and Chennai is unjustified and untenable in law. Under the above circumstances the management prayed to reject the reference in the interest of justice and to pass such order/orders as may be deemed fit, proper and just.

5. During pendency of the proceeding both the parties agreed to settle up the dispute amicably and in support of their contention the workman examined two witnesses namely Sri Bitul Kr. Gogoi, the General Secretary of the ONGC Contractual Labour Union, Nazira (Assam Asset), Sivsagar and Sri J.K. Baishya, the Assistant Secretary of the ONGC Contractual Labour Union, Assam Arakan Basin, Jorhat as workmen witness No.1 & 2 respectively. While the Management examined one witness namely Sri Puskar Shankar Shukla, the Manager, HR, ONGC Assam- Assam Arakan Basin, Jorhat.

In their evidence the workmen witnesses No.1 & 2 stated that the dispute was raised by them for fixation of wage payable to the Contractual worker engaged in the ONGC who are working under Assam Asset, ONGC, Nazira; ONGC Assam Arakan Basin, Jorhat. It is mentioned that at the time of raising the dispute they espoused the cause of altogether 1500 numbers of workmen including the Nazira and Jorhat Branch of their Union and at present there are 207 number of workmen are on the fray, and now they have decided to settle up the dispute in regard to the wages and other benefit which would be payable to the workers in terms of Fair Wage Policy circulated by the ONGC vide their DO Letter No. 25(18)/2007-IR dated 8.10.2012 in respect of the 207 numbers of the workmen. It is also mentioned in their evidence that both the parties agreed to abide by the said Fair Wage Policy and pursuant to the said D.O. letter regarding Fair Wage Policy MOSs were signed between the Union, Contractor/ Principal employer in presence of the ALC(C), Dibrugarh. The settlement arrived at, inter-alia, facilitate (1) Job Security of Contract workers, (2) Wage Revision, (3) Group Insurance of contractual workers, (4) P.F., Gratuity, leave with wages, (5) Benefits of Group Insurance and Group Gratuity from LIC, (6) ESI coverage for contract labourer (wherever applicable), (7) Annual Bonus.; and the benefits of the Fair Wage Policy applicable to the Contractual workers shall be extended with effect from 1.4.2012 and it will remain in force up to 31st March, 2017 and this Fair Wage Policy will be applicable in respect of the contract labours covered under the Fair Wage Policy. They have proved the copy of the settlement of Fair Wage Policy vide Exhibit-2 (30 pages) and the MOS arrived at between the Contractor/ Employer, the Union and in presence of the Principal

Employer/Management and the ALC (C), Dibrugarh vide Exhibit-4 to 10. In their cross-examination both the workmen witnesses have mentioned that they have submitted a list of 1500 workers at the time of raising the dispute and as all their claims/benefits as mentioned in the Schedule of reference have been satisfied they have no other claim and dispute in respect of 207 numbers of workmen as regards the terms of the present reference.

The Management witness Sri Puskar Sankar Shukla in his deposition mentioned that during the pendency of this reference a Fair Wage Policy in ONGC has been promulgated vide D.O. No. 25(18)/2007-IR dated 8.10.2012 which is applicable retrospectively from 1.4.2012 and as per the requirements of the said Fair Wage Policy separate region/ project wise MOS was signed between the Contractual Union and the Contractor in presence of the RLC (C) and the management representative. The details terms and conditions of the Fair Wage Policy are contained in the MOS marked as Exhibit-4 to 10. The benefits of Fair Wage Policy shall be applicable to the workmen as mentioned in the MOS marked as Exhibit-4 to 10 executed in compliance with the term No.8 of the said settlement dated 3.6.14 after observing all the prescribed procedure of Fair Wage Policy. In his cross-examination the Management witness No.1 stated that the settlement arrived at in the Court was in respect of 207 numbers of Contractual Workers i.e. as per the agreed list submitted before the Court.

6. I have perused the evidence adduced by both the Union, as well as the Management of ONGC, Assam Asset, Nazira and ONGC, Assam-Assam Arakan Basin, Jorhat along with the settlement dated 18.7.2012 on the Fair Wage Policy signed by the ONGC, Gujarat Petroleum Union (INTUC), Petroleum Mazdoor Sangh, ONGC Mazdoor Sangh, etc. and the Management of ONGC, Ahmedabad, Boroda, etc. in presence of Dy. CLC (C), Ajmir vide Exhibit-2; the Memorandum of Settlement for implementation of Fair Wage Policy arrived at u/s 12(3) of the I.D.Act, 1947 circulated vide D.O. No.25(18)/07-IR dated 8.10.2012 before the Conciliation Officer and RLC (C), Dibrugarh on 3.6.2014 signed by the Contractors/employers of ONGC Ltd. Assam and Assam Arakan Basin, Jorhat and Contract workmen represented through ONGC Purvanchal Employees Association, Sivsagar and ONGC Contractual Labour Union, Sivsagar in presence of Management of ONGC; the MOS arrived on 3.6.2014 before the RLC (C), Dibrugarh signed by the Contractors/employers of ONGC Ltd, Assam, Assam Arakan Basin, Jorhat and Contract workmen represented through ONGC Purvanchal Employees Association, Sivsagar and ONGC Contractual Labour Union, Sivsagar in presence of Management of ONGC; the MOS dated 3.6.2014 arrived at before the RLC (C), Dibrugarh signed by the Contractors/employers of ONGC Ltd. Assam and Assam Arakan Basin, Jorhat and Contract workmen represented through ONGC

Purvanchal Employees Association, Sivsagar and ONGC Contractual Labour Union, Sivsagar in presence of Management of ONGC; the MOS arrived at on 3.6.14 in presence of RLC (C), Dibrugarh signed by the Contractors/Employers of ONGC Ltd. Assam and Assam Arakan Basin, Jorhat and Contract workmen represented through ONGC Purvanchal Employees Association, Sivsagar and ONGC Contractual Labour Union, Sivsagar in presence of Management of ONGC; the MOS dated 3.6.14 arrived at in presence of RLC(C), Dibrugarh duly signed by the Contractors/employers of ONGC Ltd. Assam and Assam Arakan Basin, Jorhat, and Contract workmen represented by ONGC Purvanchal Employees Association, Sivsagar and ONGC Contractual Labours Union, Sivsagar in presence of Management of ONGC; the MOS dated 3.6.14 arrived at in presence of RLC(C), Dibrugarh duly signed by the Contractors/employers of ONGC Ltd. Assam and Assam Arakan Basin, Jorhat, and Contract workmen represented by ONGC Purvanchal Employees Association, Sivsagar and ONGC Contractual Labours Union, Sivsagar in presence of Management of ONGC; the MOS dated 30.12.2013 in presence of Assistant Labour Commissioner (C), Dibrugarh, Assam duly signed by the Contractors/Employers of ONGC Ltd., Assam Asset, Sivsagar/Nazira and the contract workmen represented through ONGC Purbanchal Employees Association, Sivsagar in presence of the Management of ONGC, marked as Exhibit-4 to Exhibit-10 respectively.

7. On careful scrutiny of the evidence and the documents along with the MOS as mentioned above it is revealed that both the parties have agreed to settle the dispute on the basis of the Fair Wage Policy and in this connection they have arrived at a settlement and the MOSs (Exhibit-4 to 10) between the parties in terms of the conciliation arrived at and signed by the Contractors/Employers of the ONGC Ltd. Ahmedabad, Ankleshwar, Mehseha, Boroda, etc. and Contract Workmen represented through Gujrat Petroleum Employees Union, Ahmedabad and other Union; and I find no reason to stand as a hurdle between the parties as the MOSs marked as Exhibit-4 to 10 are fair and legal settlement. In course of proceeding the Union submitted the Affidavit and Affidavit-cum-declaration sworn in by 197 numbers of workmen of ONGC Contractual Labour Union, Najira, Sivsagar and Jorhat in terms of the Fair Wage Policy on wages arrived at Ajmir in presence of the Dy. CLC (C), Ajmir dated 18.7.12 (Exhibit-2). It is also cited by the Union that during the process of settlement of the dispute two workmen namely Kamal Ch. Bora and Vaikan Duara of Assam and Assam Arakan Basin expired. Both the Union i.e. the ONGC Contractual Labour Union and the Management informed the Court vide their petition No.483/14 that although they have mentioned that 10 numbers of workmen who were originally the members of ONGC Contractual Labour Union, Sivsagar subsequently joined in the ONGC Purbanchal Employees

Association have not submitted their Affidavit and Affidavit-cum-declaration, and the said 10 numbers of Affidavit and Affidavit-cum-declaration have been submitted by the said workmen to the Management but on scrutiny they have found that the said 10 numbers of declaration and Affidavit-cum-declaration have been taken away by the Union Office bearer of ONGC Purvanchal Employees Association, Sivsagar. As such, the dispute is going to be settled in respect of 197 numbers of Contractual workers belonging to ONGC Contractual Labour Union, Sivsagar and Jorhat at present.

8. In view of my above discussion the prayer made by the ONGC Contractual Labour Unions, Sivsagar and Jorhat and the Management of ONGC Ltd., Assam Asset, Sivsagar and Assam-Arakan Basin, Jorhat jointly vide petition No.405/14 date 25.7.14 for settlement of the dispute in terms of the Fair Wage Policy adopted by the ONGC Ltd. which was forwarded by the ONGC Ltd. vide Exhibit-2 (30 pages) and the MOS arrived at vide Exhibit-4 to Exhibit-10, is allowed. Accordingly this reference is disposed of on amicable settlement between the parties as per the terms of settlement on the matters as mentioned in the MOS as aforesaid which are :

“TERMS OF SETTLEMENT

1. **Job Security of the contract workers :** Both the parties agreed that as per existing practice, whenever contractor of ONGC changes, list of the contract workers engaged by previous contractor will be provided to the new contractor so that same contract worker can be engaged. The contract workers who were engaged as on 24.6.08 and continued to be engaged till date and also those who were engaged on 1.1.11 and have continued till date will only be eligible to be included in the list. However, the contract labour can be removed on the following grounds:

- (i) After attaining the age of superannuation i.e. 60 years.
- (ii) He is unfit to work and can be removed on health ground after proper medical check-up and after payment of statutory dues.
- (iii) On disciplinary ground after conducting proper enquiry as per procedure/law following the principle of natural justice.
- (iv) He has abandoned the job on his own or remains absent for a long time.
- (v) There is reduction in the activities of the company/ closure of establishment.

2. **Wage Revision :** At present the prevailing minimum wages for the scheduled employment of “Construction or

maintenance of roads and building operations etc.” is being ensured by the management for the contract workers not covered under schedule employment in Oil Sector. Accordingly wages of each contract labour shall be increased by 35% on prevailing minimum wages, including VDA applicable from time to time and paid to the contract labour by the respective contractors. Apart from the above increase, component of Rs.50/- (Rs.Fifty) as per order dated 15.2.01 of the Dy. CLC(C), Mumbai presently being paid to the workers will be continued and paid separately. The above wage revision shall be effective from 1st April, 2012. In existing contracts, the contractors will make the payment of additional wages as above and recover the same from ONGC. In future contracts, this will form a part of the tender conditions.

3. **Group Insurance for contract labour :** Both the parties agreed that contractor will ensure Group Insurance Cover for Contract Labour covered under this settlement through LIC of India. Further the Group Insurance cover of Rs.500000/- (Rupees Five lakhs) per contract worker with double accident benefit will be obtained and premium of the Insurance policy shall be paid by the contractor concerned. ONGC Management will reimburse the insurance premium and this will be made a part of tender document whenever the tenders are finalized in future. The benefit will be extended under existing contracts also.

4. **P.F, Gratuity, leave with wages etc. :** Both the parties agreed—

(a) **Gratuity :** The contractors will extend Gratuity benefit through Group Gratuity Policy cover from LIC. The annual premium payable will be paid by the respective employer/ contractor and reimbursed from ONGC. This will be done prospectively with no retrospective liability and will be part of tender document whenever the tenders are finalized in future. However, the benefit will be extended under existing contracts also.

(b) **Employees Provided Fund :** ONGC management agreed to monitor implementation of EPF provisions/ scheme through effective internal mechanism so that contractors after deducting PF contribution from employees, deposit with EPFO and in case of change of contractor necessary formalities are completed by previous contractor so that contract labour does not suffer due to change of contractor.

(c) **Leave with Wages :** That Union representatives submitted that workers are getting leave with wages. However, ONGC management assured that in case of any problem it can be brought to the notice of ONGC management and they will ensure that the benefit is provided by the contractors.

5. **ESIC coverage to contract labour :** Both the parties agreed that ONGC management will make all efforts to get extended the benefits of ESI scheme to contract labour deployed in ONGC by the contractors.

6. **Withdrawal of pending court/tribunal cases relating to demand for regularization and revision of wages :** Considering the whole package of benefit which is to be ensured by the ONGC management to be extended to the contract labour deployed in their operations by the contractors, it is agreed that with the above terms of settlement, the demand of the workmen represented by the signatory trade unions for regularization of contract workers and revision of wages pending in any forum namely CGIT/Industrial Tribunal /Labour Court etc. shall stand resolved with immediate effect as the same is taken care in Clause 1 & 2 of Terms of Settlement under Job Security of contractual employees.

Further it is also agreed that the concerned signatory trade unions shall submit a petition to the appropriate forum alongwith the copy of the Settlement for withdrawal of the petition within 30 days. The enhanced wages/benefits will be applicable only to those contract workers who submit their consent/application to the concerned signatory union accepting the terms and conditions of this settlement by 31st Aug., 2012.

It is agreed by unions and Principal Employer ONGC management that these benefits to contract workers shall be extended through concerned contractor w.e.f. 1.4.12 and this Settlement will remain in force for a period of five years from the date of signature or till minimum wages for Oil Sector are notified by Central Government by including in the schedule employment for Oil Mines, whichever is earlier.”

The terms of settlement as mentioned above as well as the MOSs marked as Exhibit-4 to Exhibit-10 will form part of record.

9. Be it mentioned here that the 10 numbers of workmen as aforesaid who could not submit their Affidavit and Affidavit-cum-declaration in terms of Annexure-2 and 3 of the Fair Wage Policy and the legal heirs of the 2 workmen who expired during the pendency of this reference as mentioned above are at liberty to approach the Management by filing their Affidavit and Affidavit-cum-declaration for availing their benefit of Fair Wage Policy. The Management shall take necessary step to satisfy the claims of these workmen in the light of the MOS arrived at between the Contractor/employers of ONGC and the ONGC Contractual Labour Union and the ONGC Purbanchal Employees Association vide Exhibit-4 to Exhibit-10 in respect of the said 10 + 2=12 numbers of workmen.

Pronounced by me in the open Court.

Given under my hand and seal of this Court on this 25th day of September, 2014.

Send the Award to the Ministry as per procedure.

L. C. DEY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3047.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 05/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30011/44/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2014) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30011/44/2013-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Sri L. C. Dey, M.A., LL.B.,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 05 of 2014

In the matter of an Industrial Dispute between :

Md. Aftab Hussain ...Claimant/workman

-Vrs-

The Management of Indian Oil
Corporation Ltd. (Assam Oil Division),
Digboi ...O.P./Management

APPEARANCES :

For the Workman : The Jt. Secretary, AOC Labour
Union, Digboi

For the Management : Mr. S.N. Sarma, Sr. Advocate
Mr. A. Jahid, Advocate

Date of Award: 27.10.14

AWARD

1. This Reference has been initiated on an Industrial Dispute exists between the Management of Indian Oil Corporation Limited, Assam Oil Division, Digboi and their workman, which was referred to by the Ministry of Labour, Government of India under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the ID Act vide their order No.L-30011/44/2013-IR(M), dated 19.02.2014 in respect of the matter specified in the Schedule below:

SCHEDULE

“Whether the action of the management of Indian Oil Corporation Limited, Assam Oil Division, Digboi in transferring Aftab Hussain, Employee No.134702 is legal & justified? If not, what relief he is entitled to?”

2. After registration of this Reference notices were issued upon both the Union and the Management. Accordingly both the parties appeared & submitted their Claim Statement/Written Statement.

3. The case of the workman, in nutshell, is that the workman Md. Aftab Hussain, Employee No.134702 has been working in Indian Oil Corporation Ltd. (AOD) since 29.11.1978 and discharging his duty with the satisfaction of the superiors in different assignments and now working as Junior Engg. Assistant, Grade-IV under Refinery Maintenance Department. The workman has also been functioning as Vice-President of AOC Labour Union registered bearing no.43 affiliated to INTUC under No.8155. The AOD Labour Union has submitted the list of office bearers of their Union within the stipulated period from time to time to the AOD Management to recognize as “Protected Workmen” subject to Section 61(1) of Industrial Dispute Act, 47. In the month of July, 2013 the workman was served with an office order No. PERS/CONF 3G/2013-562 dated 13.06.2013 transferring him from Refinery Maintenance Department to hardship location LPG Bottling Plant (Dimapur) Department on 12.7.2013 with a view to restrain him from Union activities. The workman mentioned that the process of verification of membership strength has already been initiated by the Ministry of Labour and Employment, Government of India, if the condition of the service of the workman is altered by way of transfer from one place to another hardship location the very purpose of Notification under the Ministry of Labour and Employment, Government of India would be frustrated; and this is one of unfair labour practices as defined in the fifth schedule of the I.D. Act, 47. The workman contended that under provision of Section 33(3) (a) of the aforesaid Act the management is prohibited to alter the condition of service to the prejudice of workman

by way of transfer of the workman who is aged about more than 55 years and thereby the management of AOD violated their own modalities as the transfer of own employee will be done before 54 years of age as laid down in transfer policy of the AOD. It is pointed out that the transfer of workman is prerogative of the management, similarly in Trade Union activities of the workman as well as the industry is also prerogative of the “Protected Workmen”. Thus the transfer was done purely to victimize the union and protective workman particularly at the juncture of membership verification.

The workman added that consequent upon such mala fide transfer, a General Council of AOC Labour Union was held in July, 2013 and it was decided to protest against such mala fide transfer order of the workman and several representations were submitted to the management with a copy to different competent authorities to recall the transfer order but the management did not pay heed to it. Finding no alternative they have raised an industrial dispute on the matter before ALC (C), Dibrugarh who took all efforts to settle up the matter amicably but the AOD Management did not arrive at mutual settlement even after assurance to recall the transfer matter before the conciliation officer. The said dispute was also placed before the CLC(C), New Delhi who forwarded the matter to the RLC (C), Guwahati, who requested the Executive Director of AOD, Digboi vide his letter dated 26.11.2013 to keep in abeyance of all the transfer of office bearers and active members until the election process are over. It is further stated that the conciliation proceeding has been in continuation even though the workman has not been paid his salary which caused him financial crunch which is not just and fair on the part of the management and it tentamounts unfair labour practice.

4. The management, on the other hand, submitted their written statement stating inter-alia, that the order of reference made by the Central Government is not maintainable as the transfer is a condition of service and the issuance of transfer order to an employee can not be an Industrial dispute and hence, the order of reference is bad and the same can not be adjudicated. The Management mentioned that the IOCL (AOD) is a Division of Indian Oil Corporation Ltd. having its Refinery at Digboi and the same Division was known as Assam Oil Company Ltd. earlier which was merged with the IOC Ltd. and is kept a separate Division of IOCL. The workman was issued an Office Order dated 13.6.13 transferring him to Dimapur LPG BP as Operator-D, LPG and he was released from his present assignment with effect from 17.8.13 vide order dated 16.8.13. Thereafter the workman submitted representations on 16.8.2013 informing that his transfer matter was sub-judice under ALC(C), Dibrugarh and was unable to move new assignment till the matter resolved. But the Chief Manager

(Maintenance) vide his letter dated 21.8.2013 informed the workman that his application could not be considered till further order received from the competent authority. Again the workman vide his letter dated 21.8.13 approached the Executive Director, AOD, Digboi to recall his transfer order on the ground that he was Protected Workman being elected member of the registered Trade Union and the said prayer for recalling the transfer order was also rejected. In the mean time AOC Labour Union, Digboi referred the matter along with other three transfer order of 3 workmen to MOP & G, Delhi vide order dated 9.9.2013 which was subsequently forwarded to the Director, Marketing/HR, IOCL (AOD), by Under Secretary to the Government of India, MOP&G, vide letter dated 30.9.2013. Then the management after careful consideration of the matter, vide his letter dated 21.10.2013 informed the President, AOC Labour Union, Digboi that the transfer order was issued considering the exigencies of the job requirement etc. and as per the provision of the applicable orders/ modalities. As such, the request for stay of transfer order could not be considered. The workman again requested to recall his transfer order on the ground that his transfer from Digboi would hamper in carrying out Union activity and also he lost the opportunity to enjoy his forthcoming festival for not getting salary during that period, but the management rejected his petition with advice to abide by the transfer order otherwise the workman would be marked as absent without sufficient cause. Thereafter the workman along with other employees informed the Deputy Commissioner, Tinsukia vide letter dated 2.11.13 that they would go for hunger strike till death from 8 am on 2.11.13 in front of the IOCL, AOD's Administrative Complex. In the mean time an office order dated 8.11.13 was issued reviewing the earlier order that the workman would undergo an intensive training on bottling plant operation at Gopanari IBP from 8.11.13 to 31.12.13 and upon completion of the training he would report to Plant Manger, Dimapur IBP on or before 02.01.2014 for further assignment; and the treatment of the period of absence from 17.08.2013 to 08.11.2013 would be advised separately but the workman along with another employee resorted to hunger strike in front of Administrative Complex from 02.11.13 in their individual capacity demanding their transfer order to be withdrawn. Accordingly the management informed the Deputy Commissioner, Tinsukia about the hunger strike and requested for intervention vide letter dated 4.11.13. The AOC Labour Union vide their letter dated 8.11.13 appealed the management to retain the workman along with other two workmen till 31.12.13 in Gopanari Plant. Thereafter the workman reported at Gopanari IBP and finally the workman joined in Dimapur IBP on 17.4.14 as per the transfer order dated 13.6.13. The management further mentioned that the workman along with other employees who were also transferred during the same time filed 4 Writ Petitions before the Hon'ble Gauhati High Court

including the Writ Petition No.W.P(C) No. 4291/2013 in respect of the workman but the Hon'ble Gauhati High Court by a common order dated 01.08.2013 disposed of all the 4 Writ Petitions without entering into the merit holding that since the conciliation proceeding is pending and if the writ petitioner is aggrieved by the transfer order, they may file application u/s 33A of the ID Act within the period of 7 days before the Conciliation Officer and directed the management that if the transfer orders are not already given effect to, shall be kept in abeyance for a period of 15 days from 01.08.2013. But the management is not aware whether the workman has filed such complaint u/s 33A of the I.D.Act. the management contended that the transfer is a condition of service of the workman and as such, the workman can not claim the said transfer as mala fide or illegal and he is not entitled to any relief in the instant reference and no one can claim that he should not be transferred from a post in which he has been working since long and if such transfer is interfered by the Tribunal the other workmen of the Corporation will naturally claim that they should also not be transferred from their post and in such case, it will bring a standstill in the entire organization. Further case of the management is that the AOC Labour Union is not recognized during the relevant period and as such, claiming of protected workman status by the workman does not arise. As from the verification of the membership conducted by the Ministry of Labour & Employment Department, it was ascertained that the AOC Labour Union has only 772 members and as such, their claim for giving protected workmen status to 16 workmen can not be considered. The Management pleaded that the workman was transferred as per the Provision of transfer policy after continuing his job in the Department for more than 34 years and hence, it is not correct that the workman was transferred for restraining him from Union activity. Also the workman is not entitled to get the benefit of Section 33C(a) of I.D.Act as he was not the office bearer of majority Union at the time of issuing of transfer order, and the transfer policy is guided by operational reason to meet additional requirement and redeployment of surplus manpower, etc. Further plea of the management is that the transfer was issued to about 60 employees during the year for organizational requirement only, and out of them majority are the members of the recognized union and all the representations of the union regarding stay of transfer were given due weightage and finally reviewed by the management. The workman even after his release from his earlier assignment with effect from 17.8.13 to join Dimapur LPGBP as Operator-D, LPG did not report his new assignment. Meanwhile on his representation dated 21.8.13 the transfer order of the workman was reviewed vide letter dated 06.09.2013 rejecting the prayer of cancellation of the transfer; and finally the workman joined at LPGBP, Dimapur on 17.04.2014 and in between the workman was absent

from duty without any leave and permission and as such, the principle of no work no pay would apply for those days and accordingly he is not entitled to wages for those days due to his absence without leave or permission. Under the above premises the management prayed to answer this reference in favour of them.

5. On receipt of the notice issued from this Tribunal the workman appeared and submitted his Claim Statement on 7.5.2014 and thereafter he remained absent without any step. As a result, the case was fixed for ex-parte hearing vide order dated 31.7.14. Thereafter 2 dates were fixed for ex-parte hearing but the workman did not appear and finally the case was heard ex-parte on 16.11.14.

The Management examined Mr. Ripun Chandra Barthakur, Administrative Officer, IOCL(AOD), Ulubari, Guwahati as Management Witness No.1 ex-parte. I have heard argument from Management side.

6. On perusal of the Claim Statement of the workman, the W.S. submitted by the management along with the evidence of the management witness No.1, it appears that the workman Aftab Hussain is a workman of IOCL (AOD) and his conditions of service is governed by the Standing Order of the Assam Oil Company Ltd. (marked as Exhibit-A) and the workman was transferred as per the provision of the said Standing Order in the interest of the Company's service on 13.6.13 from Digboi to Dimapur LPG BP along with some other workmen. While the workman moved the Hon'ble Gauhati High Court against the said order of transfer and the Hon'ble High Court has been pleased to direct the workman to raise the Industrial Dispute. Then the AOC Labour Union raised a dispute alleging malafide transfer of the workman. The management witness No.1 mentioned that the Government of India, vide their letter No.L-30011/56/2013-IR(M) dated 2.7.14 refused to refer the dispute observing that the matter raised can not be considered as an Industrial Dispute vide Exhibit-B and in view of the said order of the Ministry of Labour, Government of India, the present reference is not maintainable in law. The workman Aftab Hussain was transferred from Digboi to Dimapur LPG BP on 13.6.13 in exigency of the Company's service and the workman also joined his transferred post on 17.4.14 and he is still working there. The management witness No.1 has proved the computer generated joining report of the workman vide Exhibit-C. He also mentioned that the workman soon after receiving the notice from this Tribunal was represented by the joint Secretary, AOC Labour Union, Digboi and thereafter he remained absent and as such, the conduct of the workman revealed that he has accepted the transfer. Thus the action of the management is legal and justified and accordingly the workman is not entitled to any relief as claimed.

7. I have heard argument from the learned Advocate for the management ex-parte. The Standing Order of the Assam Oil Company Ltd., under the Industrial Employment (Standing Orders) Act, 1946 No.XV, which runs as under:

“A Transfers:

Employees may be transferred due to exigencies of work, from one area to another wherever the Company may be carrying out its operation and from one department or section to another provided that the pay, grade continuity or conditions of service of the employees are not adversely affected by such transfer and provided also that where an employee is transferred from one job to another that job should be of similar nature such as he is capable of doing. Management will give reasonable notice to the workers concerned in case of such transfers.”

It is established principle that the transfer is a condition of service and in the instant case the workman was transferred from Digboi to Dimapur LPG BP as Operator-D under the IOCL (AOD) and it was done by the management due to the exigencies of work as well as in the interest of the Company. The workman although took the plea that he falls within the category of “Protected Workman” u/s 61(1) of I.D. Act but he has not been able to establish this plea adducing evidence as well as supporting document. The management in their W.S. mentioned that the AOC Labour Union is not recognized Union during the relevant period and Mineral Oil Workers Union was recognized as majority Union at that time; and as such the plea of the management can not be discarded and the claim of the workman that he is “Protected workman” is found to be not established. Further on verification of the list of membership conducted by the Ministry of Labour and Employment it was ascertained that AOC has only 772 members.

8. In course of argument Mr. S.N.Sarma, learned Sr. Advocate submitted that the workman was transferred in the interest of the Company on exigency and the transfer is a condition of service and hence the workman is not entitled to any relief as claimed. Further the workman also failed to prove his case adducing any evidence, rather he abstained himself from appearing before the Court since after filing of his claim statement, in order to prove the alleged unfair labour practices as well as facing the cross-examination by the management in the Court. Mr. Sarma however mentioned that the workman after submitting representations and also admitting to raise some protest against the management for recalling the transfer order and after filing Writ Petition before the Hon'ble Gauhati High Court has joined his place of transfer on 17.4.14; and as such, the conduct of the workman reveals that he has accepted the transfer. Hence, the action of the

management is legal and justified and as such, the workman is not entitled to any relief as claimed.

9. The MW-1, in his evidence categorically mentioned that upon moving the Hon'ble Gauhati High Court by the workman against the order of transfer of the workman the hon'ble High Court was pleased to direct the workman to raise Industrial Dispute. While the AOC Labour Union raised the dispute but the Government of India, vide their letter marked as Exhibit-B refused to refer the dispute and observing that the matter raised can not be considered as Industrial Dispute. The letter No. L-30011/56/2013-IR(M) dated 2.7.2014 issued by the Ministry of Labour, Government of India, marked as Exhibit-B shows that the Ministry has refused to refer the dispute for adjudication for the following reasons:

"It is reported that the transfer of the Office bearers of the claimant union is done as per the Standing Order of the corporation and transfer policy/rotation modality/guidelines as consented to by the union. Hence the matter raised can not be construed as an industrial dispute".

The Ministry has subsequently referred this dispute under clause (d) of Sub-Section (1) and Sub-Section-(2A) of Section 10 of the ID Act vide their letter No.L-30011/44/2013-IR(M) dated 19.02.2014 for adjudication. Clause-(d) of Sub-Section-(1) of Section 10 reads as under :

"10 : Reference of disputes to Boards, Courts or Tribunals- (1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing—

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:"

The second Schedule and third Schedule to the ID Act provides for the matter within the jurisdiction of Labour Court and on perusal of these 2nd and 3rd schedule of the aforesaid Act there is no mention of the transfer of the workman/employee. However there is also nothing on record to show that the transfer of the workman was not made as per provision of the Standing Order of the Assam Oil Company Ltd. due to exigency of work and in the interest of the Company. There is also no materials to show that the transfer of the workman was done malafide or in gross violation of natural justice. Ordinarily the Civil Court has no jurisdiction to interfere with the transfer of the workman/employee except the transfer is made by the

management malafide or in gross violation of the principle of natural justice. Thus the argument raised by Mr. S.N.Sarma, learned Sr. Advocate for the management can not be rejected.

10. Considering the facts and circumstances of the case and having regard to the discussion and the findings arrived at as above, it can safely be held that the action of the management of Indian Oil Corporation Ltd. (AOD) in transferring Aftab Hussain, Employee No.134702 is legal and justified and as such, the workman is not entitled to any relief as claimed. Accordingly, this reference is answered in negative.

Let a copy of the no relief Award be forwarded to the Ministry as per procedure.

Given under my hand and seal of this Court on this 27th day of October, 2014, at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 04/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30011/43/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 04/2014) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30011/43/2013-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Sri L. C. Dey, M.A., LL.B., Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 04 of 2014**In the matter of an Industrial Dispute between :**

Md. Nasir Uddin Neog ...Claimant/workman

-Vrs-

The Management of Indian Oil Corporation Ltd. (Assam Oil Division), Digboi ...O.P./Management

APPEARANCES :

For the Workman : The Jt. Secretary, AOC Labour Union, Digboi

For the Management : Mr. S.N. Sarma, Sr. Advocate.
Mr. A. Jahid, Advocate

Date of Award: 30.10.14

AWARD

1. This Reference has been initiated on an Industrial Dispute exists between the Management of Indian Oil Corporation Limited, Assam Oil Division, Digboi and their workman, which was referred to by the Ministry of Labour, Government of India under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the ID Act vide their order No.L-30011/43/2013-IR(M), dated 21.02.2014 in respect of the matter specified in the Schedule below:

SCHEDULE

“Whether the action of the management of Indian Oil Corporation Limited, Assam Oil Division, Digboi in transferring Md. Nasiruddin Neog, Employee No.134720 is legal & justified? If not, what relief he is entitled to?”

2. On receipt of the reference from the Ministry of Labour, Government of India, notices were served upon the concerning parties. The management appeared through their learned Advocate while the Joint Secretary, AOC Labour Union, Digboi submitted a petition on behalf of the workman showing cause of their inability to appear on the fixed date 8.4.14 due to Parliamentary Election. On the next date i.e. on 7.5.14 the workman submitted petition with prayer for adjournment and thereafter the workman/ Union remained absent without any step on several dates and lastly vide order dated 31.7.14 the case has been fixed for hearing ex-parte against the Union. In the mean time the management submitted their written statement and the case proceeded ex-parte against the workman vide order dated 31.7.2014.

3. The management submitted their written statement stating inter-alia, that the order of reference made by the Central Government is not maintainable as the transfer is a condition of service and the issuance of transfer order to

an employee can not be an Industrial dispute and hence, the order of reference is bad and the same can not be adjudicated. The Management mentioned that the IOCL (AOD) is a Division of Indian Oil Corporation Ltd. having its Refinery at Digboi and the same Division was known as Assam Oil Company Ltd. earlier which was merged with the IOC Ltd. and is kept a separate Division of IOCL. The workman was issued an Office Order dated 13.6.13 transferring him from Digboi to Barkhola LPG BP as Operator-C, LPG and he was released from his present assignment with effect from 12.7.13 vide order dated 9.7.13. Thereafter the workman started submitting representations & lastly on 21.8.2013 for staying his transfer on various grounds. In the mean time an office order dated 8.11.13 was issued reviewing the earlier order that the workman would undergo training on bottling plant operation at Gopanari IBP from 8.11.13 to 31.12.13 and upon completion of the training he would join at Barkhola on or before 02.01.2014. The management further mentioned that the workman along with other employees who were also transferred during the same time filed 4 Writ Petitions before the Hon'ble Gauhati High Court including the Writ Petition No.W.P(C) No.4294/2013 in respect of the workman but the Hon'ble Gauhati High Court by a common order dated 01.08.2013 disposed of all the 4 Writ Petitions without entering into the merit holding that since the conciliation proceeding is pending and if the writ petitioner is aggrieved by the transfer order, they may file application u/s 33A of the ID Act within the period of 7 days before the Conciliation Officer and directed the management that if the transfer orders are not already given effect to, shall be kept in abeyance for a period of 15 days from 01.08.2013. But the management is not aware whether the workman has filed such complaint u/s 33A of the I.D.Act. the management contended that the transfer is a condition of service of the workman and as such, the workman can not claim the said transfer as malafide or illegal and he is not entitled to any relief in the instant reference and no one can claim that he should not be transferred from a post in which he has been working since long, and if such transfer is interfered by the Tribunal the other workmen of the Corporation will naturally claim that they should also not be transferred from their post and in such case, it will bring a standstill in the entire organization. The management further pleaded that the notice was served by this Tribunal for filing claim statement/written statement by the parties on 8.4.2014 but the workman did not appear. Similarly on the next dates i.e. on 7.5.2014, 31.5.2014 & 14.7.2014 the workman remained absent, and this fact itself shows that the workman is not interested to contest the present reference and hence, the same may be disposed of by passing a no dispute award.

4. The Management examined Mr. Ripun Chandra Barthakur, Administrative Officer, IOCL(AOD), Ulubari, Guwahati as Management Witness No.1 ex-parte.

5. On perusal of the the W. S. submitted by the management along with the evidence of the management witness No.1, it appears that the workman Nasir Uddin Neog is a workman of IOCL (AOD) and his conditions of service is governed by the Standing Order of the Assam Oil Company Ltd. (marked as Exhibit-A) and the workman was transferred as per the provision of the said Standing Order in the interest of the Company's service on 13.6.13 from Digboi to Barkhola LPG BP along with other workmen. While the workman moved the Hon'ble Gauhati High Court against the said order of transfer and the Hon'ble High Court has been pleased to direct the workman to raise the Industrial Dispute. Then the AOC Labour Union raised a dispute alleging malafide transfer of the workman. The management witness No.1 mentioned that the Government of India, vide their letter No.L-30011/56/2013-IR(M) dated 2.7.14 refused to refer the dispute observing that the matter raised can not be considered as an Industrial Dispute vide Exhibit-B and in view of the said order of the Ministry of Labour, Government of India, the present reference is not maintainable in law. The workman Nasir Uddin was transferred from Digboi to Barkhola LPG BP on 13.6.13 on exigency of the Company's service and the workman also joined his transferred post on 17.4.14 and he is still working there. The management witness No.1 has proved the computer generated joining report of the workman vide Exhibit-C. He also mentioned that the workman soon after receiving the notice from this Tribunal was represented by the joint Secretary, AOC Labour Union, Digboi and thereafter he remained absent and as such, the conduct of the workman revealed that he has accepted the transfer. Thus the action of the management is legal and justified and accordingly the workman is not entitled to any relief as claimed.

6. I have heard argument from the learned Advocate for the management ex-parte. The Standing Order of the Assam Oil Company Ltd., under the Industrial Employment (Standing Orders) Act, 1946 No.XV, which runs as under:

“A Transfers:

Employees may be transferred due to exigencies of work, from one area to another wherever the Company may be carrying out its operation and from one department or section to another provided that the pay, grade continuity or conditions of service of the employees are not adversely affected by such transfer and provided also that where an employee is transferred from one job to another that job should be of similar nature such as he is capable of doing. Management will give reasonable notice to the workers concerned in case of such transfers.”

It is established principle that the transfer is a condition of service and in the instant case the workman was transferred from Digboi to Barkhola LPG BP as

Operator-C under the IOCL (AOD) and it was done by the management due to the exigencies of work as well as in the interest of the Company.

7. In course of argument Mr. S. N. Sarma, learned Sr. Advocate submitted that the workman was transferred in the interest of the Company on exigency and the transfer is a condition of service and the workman has not been able to submit his claim statement and even after his first appearance he remained absent for which he has failed to establish his case. Mr. Sarma however mentioned that the workman after submitting representations and also proposing to raise some protest against the management for recalling the transfer order as well as filing Writ Petition before the Hon'ble Gauhati High Court has joined his place of transfer on 07.01.2014 and as such, the conduct of the workman reveals that he has accepted the transfer. Hence, the action of the management is legal and justified and as such, the workman is not entitled to any relief as claimed.

9. The MW-1, in his evidence categorically mentioned that upon moving the Hon'ble Gauhati High Court by the workman against the order of transfer of the workman the hon'ble High Court was pleased to direct the workman to raise Industrial Dispute. While the AOC Labour Union raised the dispute but the Government of India vide their letter marked as Exhibit-B refused to refer the dispute and observing that the matter raised can not be considered as Industrial Dispute. The letter No. L-30011/56/2013-IR(M) dated 2.7.2014 issued by the Ministry of Labour, Government of India, marked as Exhibit-B shows that the Ministry has refused to refer the dispute for adjudication for the following reasons:

“It is reported that the transfer of the Office bearers of the claimant union is done as per the Standing Order of the corporation and transfer policy/rotation modality/guidelines as consented to by the union. Hence the matter raised can not be construed as an industrial dispute”.

The Ministry has subsequently referred this dispute under clause (d) of Sub-Section (1) and Sub-Section-(2A) of Section 10 of the ID Act vide their letter No.L-30011/43/2013-IR(M) dated 19.02.2014 for adjudication. Clause-(d) of Sub-Section-(1) of Section 10 reads as under :

“10 : Reference of disputes to Boards, Courts or Tribunals- (1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing—

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second

Schedule or the Third Schedule, to a Tribunal for adjudication.”

The second Schedule and third Schedule to the ID Act provides for the matter within the jurisdiction of Labour Court and on perusal of these 2nd and 3rd schedule of the aforesaid Act it is found there is no mention of the matter regarding transfer of the workman/employee. There is also nothing on record to show that the transfer of the workman was not made as per provision of the Standing Order of the Assam Oil Company Ltd. due to exigency of work and in the interest of the Company. There is also no materials to show that the transfer of the workman was done malafide or in gross violation of natural justice. Further the Civil Court has no jurisdiction to interfere with the transfer of the workman/employee except the transfer is made by the management malafide or in gross violation of the principle of natural justice. Thus the argument raised by Mr. S.N.Sarma, learned Sr. Advocate for the management can not be rejected.

10. Considering the facts and circumstances of the case and having regard to the discussion and the findings arrived at as above, it can safely be held that the action of the management of Indian Oil Corporation Ltd. (AOD) in transferring Nasir Uddin Neog, Employee No.134720 is legal and justified and as such, the workman is not entitled to any relief as claimed. Accordingly, this reference is answered in negative.

Let a copy of the no relief Award be forwarded to the Ministry as per procedure.

Given under my hand and seal of this Court on this 30th day of October, 2014, at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ऑयल कारपोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 06/2014) को प्रकाशित करती है जो केन्द्रीय सरकार को 17-11-2014 को प्राप्त हुआ था।

[सं. एल-30011/45/2013-आईआर (एम)]

जोहन तोपनो, अवर सचिव

New Delhi, the 25th November, 2014

S.O. 3049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 06/2014) of the Central Government Industrial Tribunal/Labour Court, Guwahati now as shown in the Annexure, in the

industrial dispute between the employers in relation to the management of Indian Oil Corporation Limited and their workman, which was received by the Central Government on 17-11-2014.

[No. L-30011/45/2013-IR (M)]

JOHAN TOPNO, Under Secy.

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Sri L. C. Dey, M.A., LL.B.,
Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 06 of 2014

In the matter of an Industrial Dispute between :

Sri Mohan Ch. Nath ...Claimant/workman

-Vrs-

The Management of Indian Oil
Corporation Ltd. (Assam Oil Division),
Digboi ...O.P./Management

APPEARANCES :

For the Workman : The Jt. Secretary, AOC Labour
Union, Digboi

For the Management : Mr. S.N. Sarma, Sr. Advocate.
Mr. A. Jahid, Advocate

Date of Award: 29.10.14

AWARD

1. This Reference has been initiated on an Industrial Dispute exists between the Management of Indian Oil Corporation Limited, Assam Oil Corporation Limited, Assam Oil Division, Digboi and their workman Shri Mohan Chandra Nath, which was referred to by the Ministry of Labour, Government of India under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the ID Act vide their order No.L-30011/45/2013-IR(M), dated 21.02.2014 in respect of the matter specified in the Schedule below:

SCHEDULE

“Whether the action of the management of Indian Oil Corporation Limited, Assam Oil Division, Digboi in transferring Shri Mohan Chandra Nath, Employee No.134868 is legal & justified? If not, what relief he is entitled to?”

2. On receipt of the reference from the Ministry of Labour, Government of India, notices were served upon the concerning parties. The management appeared through their learned Advocate while the Joint Secretary,

AOC Labour Union, Digboi submitted a petition on behalf of the workman showing cause of their inability to appear on the fixed date 8.4.14 due to Parliamentary Election. On the next date i.e. on 7.5.14 the workman submitted petition with prayer for adjournment and thereafter the workman/ Union remained absent without any step on several dates and lastly vide order dated 31.7.14 the case has been fixed for hearing ex-parte against the Union. In the mean time the management submitted their written statement.

3. The case of the management in brief is that the order of reference made by the Government of India vide their order dated 19.3.2014 is not maintainable as the same has been made without any application of mind; and that the transfer is a condition of service and the issuance of the transfer order to an employee can not be an Industrial Dispute, as such, the order of reference is bad and the same can not be adjudicated; the management stated that the workman Mohan Chandra Nath was issued an office order dated 13.6.2013 transferring him in his existing grade and scale of pay to Lumding Transshipment Terminal as Operator "C", OMS and he was also advised to be released on 12.07.2013 or earlier. On receipt of the transfer order the workman filed a writ petition before the management on 26.6.2013 praying for stay of the said order while the management considered the same and modified his transfer order vide order dated 10.07.2013 and instead of Lumding Transshipment Terminal, he was transferred to Gopanari Indane Bottling Plant within the vicinity of Digboi as Operator-C LPG and he was released on 10.07.2013. The workman again made a representation before the Management to stop his transfer order but it was rejected by the management vide their letter dated 06.09.2013. Then the workman joined his place of transfer at Gopanari Indane Bottling Plant on 18.10.2013 and he is still working there.

The management also mentioned that after issuance of the transfer order 5 numbers of employees along with the present workman filed Writ Petition before the Hon'ble Gauhati High Court which, however, did not entertain the same as alternative remedy was available under the Industrial Dispute Act. Thereafter the IOC Labour Union raised an Industrial dispute in respect of the transfer order alleging this to be as malafide. But the conciliation failed and on receipt of the FOC the appropriate Government under the Ministry of Labour has refused to refer any dispute vide letter dated 2.7.2014 holding that the transfer policy/rotation modality can not be construed as an industrial dispute. The management added that the transfer being a condition of service of the Corporation and no one can claim that he should be transferred from a post in which he is working since long and if such transfer is interfered other workmen of the Corporation will claim that they should not be transferred from their post, and in such

a case it will bring a stand still in the organization. The Management further pleaded that the notice was served by the Tribunal for filing claim statement/written statement by the parties on 8.4.2014 but the workman did not appear. Similarly on the next dates i.e. on 7.5.2014, 31.5.2014 & 14.7.2014 the workman remained absent, and this fact itself shows that the workman is not interested to contest the present reference and hence, the same may be disposed of by passing a no dispute award.

4. The management of IOCL (AOD), Digboi, in order to prove their case examined Shri Ripun Ch. Barthakur, Administrative Officer, IOCL (AOD), Guwahati ex-parte as MW.1 who has proved some documents in support of his oral testimony. I have heard arguments from the learned Advocate for the management ex-parte.

5. On perusal of the W.S. submitted by the management along with the evidence of the management witness No.1, it appears that the workman Mohan Chandra Nath is a workman of IOCL (AOD) and his conditions of service is governed by the Standing Order of the Assam Oil Company Ltd. (marked as Exhibit-A) and the workman was transferred as per the provision of the said Standing Order in the interest of the Company's service on 13.6.13 from Digboi to Lumding Transshipment Terminal along with some other workmen. While the workman moved the Hon'ble Gauhati High Court against the said order of transfer and the Hon'ble High Court has been pleased to direct the workman to raise the Industrial Dispute. Then the AOC Labour Union raised a dispute alleging malafide transfer of the workman. The management witness No.1 mentioned that the Government of India, vide their letter No.L-30011/56/2013-IR(M) dated 2.7.14 refused to refer the dispute observing that the matter raised can not be considered as an Industrial Dispute vide Exhibit-B and in view of the said order of the Ministry of Labour, Government of India, the present reference is not maintainable in law. The workman M.C.Nath was transferred from Digboi to Barkhola LPG BP. However subsequently because of his representation the said transfer order was modified and he was transferred to Gopanari Bottling Plant. Since after his transfer to Gopanari Bottling Plant he immediately joined at Gopanari Bottling Plant on 18.10.2013. The management witness No.1 has proved the computerised joining report of the workman vide Exhibit-C. He also mentioned that the workman soon after receiving the notice from this Tribunal was represented by the joint Secretary, AOC Labour Union, Digboi and thereafter he remained absent and as such, the conduct of the workman revealed that he has accepted the transfer. Thus the action of the management is legal and justified and accordingly the workman is not entitled to any relief as claimed.

6. The Standing Order of the Assam Oil Company Ltd., under the Industrial Employment (Standing Orders) Act, 1946 No.XV, runs as under:

“A Transfers:

Employees may be transferred due to exigencies of work, from one area to another wherever the Company may be carrying out its operation and from one department or section to another provided that the pay, grade continuity or conditions of service of the employees are not adversely affected by such transfer and provided also that where an employee is transferred from one job to another that job should be of similar nature such as he is capable of doing. Management will give reasonable notice to the workers concerned in case of such transfers.”

It is established principle that the transfer is a condition of service and in the instant case the workman was transferred from Digboi to Lumding Transshipment Terminal as Operator-D under the IOCL (AOD) and it was done by the management due to the exigencies of work as well as in the interest of the Company.

7. In course of argument Mr. S. N. Sarma, learned Sr. Advocate submitted that the workman was transferred in the interest of the Company on exigency and the transfer is a condition of service and as the workman has not been able to adduce any evidence & even he remained absent from the Court since after filing of his claim statement, which reveals that the workman/Union is not interested to established their case adducing evidence as well as facing the cross-examination by the management in the Court. Mr. Sarma however mentioned that the workman after submitting representations and proposing to raise some protest against the management for recalling the transfer order as well as filing Writ Petition before the Hon'ble Gauhati High Court has joined his place of transfer on 17.4.14; and as such, the conduct of the workman reveals that he has accepted the transfer. Hence, the action of the management is legal and justified and as such, the workman is not entitled to any relief as claimed.

8. The MW-1, in his evidence categorically mentioned that upon moving the Hon'ble Gauhati High Court by the workman against the order of transfer the Hon'ble High Court was pleased to direct the workman to raise Industrial Dispute, while the AOC Labour Union raised the dispute. But the Government of India, vide their letter marked as Exhibit-B refused to refer the dispute and observed that the matter raised can not be considered as Industrial Dispute. The letter No. L-30011/56/2013-IR(M) dated 2.7.2014 issued by the Ministry of Labour, Government of India, marked as Exhibit-B shows that the Ministry has refused to refer the dispute for adjudication for the following reasons:

“It is reported that the transfer of the Office bearers of the claimant union is done as per the Standing Order of the corporation and transfer policy/rotation modality/guidelines as consented to by the union. Hence the matter raised can not be construed as an industrial dispute”.

Subsequently the Ministry has referred this dispute under clause (d) of Sub-Section (1) and Sub-Section-(2A) of Section 10 of the ID Act vide their letter No.L-30011/45/2013-IR(M) dated 19.02.2014 for adjudication. Clause-(d) of Sub-Section-(1) of Section 10 which reads as under :

“10 : Reference of disputes to Boards, Courts or Tribunals- (1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time by order in writing-

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:”

The second Schedule and third Schedule to the ID Act provides for the matter within the jurisdiction of Labour Court and on perusal of these 2nd and 3rd schedule of the aforesaid Act there is no mention of the transfer of the workman/employee. However there is also nothing on record to show that the transfer of the workman was not made as per provision of the Standing Order of the Assam Oil Company Ltd. due to exigency of work and in the interest of the Company. There is also no materials to show that the transfer of the workman was done malafide or in gross violation of natural justice. Ordinarily the Civil Court has no jurisdiction to interfere with the transfer of the workman/employee except the transfer is made by the management malafide or in gross violation of the principle of natural justice. Thus the argument raised by Mr. S.N.Sarma, learned Sr. Advocate for the management can not be rejected.

9. Considering the facts and circumstances of the case and having regard to the discussion and the findings arrived at as above, it can safely be held that the action of the management of Indian Oil Corporation Ltd. (AOD) in transferring Mohan Chander Nath, Employee No.134868 is legal and justified and as such, the workman is not entitled to any relief as claimed. Accordingly, this reference is answered in negative.

10. Let a copy of the no relief Award be forwarded to the Ministry as per procedure.

Given under my hand and seal of this Court on this 29th day of October, 2014, at Guwahati.

L. C. DEY, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर पश्चिम रेलवे के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 5/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-41011/50/95-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of North West Railway and their workmen, received by the Central Government on 18/11/2014.

[No. L-41011/50/95-IR (B-I)]

SUMATI SAKLANI, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 5/1999

रैफरेंस: केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-41011/50/95- आई.आर. (बी.1) दिनांक 12.03.1997

महामंत्री, कैजुअल लेबर यूनियन जरिये

शिव अवतार सिंह,

डागा स्कूल के पास, बीकानेर

(कर्मचारी श्री रामचन्द्र व अन्य)

...प्रार्थी

बनाम

1. महाप्रबंधक, उत्तर पश्चिम रेलवे मुख्यालय, जयपुर।
2. मण्डल कार्मिक अधिकारी, पश्चिमी रेलवे, बीकानेर।
3. मण्डल अधीक्षण अभियंता, उत्तर पश्चिम रेलवे, बीकानेर।
4. सहायक अभियन्ता द्वितीय, उत्तर पश्चिम रेलवे, हनुमानगढ़ जंक्शन।
5. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, ऐलनाबाद।
6. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, जैतसर, जिला गंगानगर।
7. रेल पथ निरीक्षक, उत्तर पश्चिम रेलवे, श्रीगंगानगर। ...अप्रार्थीगण

उपस्थित :

पीठासीन अधिकारी: श्री हेमन्त कुमार जैन, आर.एच.जे. एस.

प्रार्थी की ओर से : श्री वी.के. माथुर

अप्रार्थी की ओर से : श्री बलविन्द सिंह बराड़

दिनांक अवार्ड : 10.10.2013

अवार्ड

1. भारत सरकार के श्रम मंत्रालय की आज्ञा क्रमांक 41011/50/95 दिनांक 12.03.1997 से निम्न अनुसूची का विवाद "Whether the 18 workman whose names, date of empyoyement and the date of termination mentioned in the list annexed are entitled for reinstatement with back wages? If not, to what relief the workmen are entitled to and from the date" अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. प्रार्थी श्रमिक की ओर से स्टेटमेंट ऑफ क्लेम पेश कर कथन किया कि सभी श्रमिकगणों द्वारा अप्रार्थी संस्थान में एक वर्ष में 240 दिन से अधिक कार्य किया गया है। सभी श्रमिकगणों को उत्तर रेलवे ने अपने मौखिक आदेश से समाप्त कर मस्टरोल से उनके नाम काट दिये। श्रमिकगणों की सेवामुक्ति से पूर्व उन्हें एक माह का नोटिस अथवा नोटिस वेतन एवं छंटनी मुआवजा आदि नहीं दिया गया। इस प्रकार अप्रार्थी द्वारा 25 एफ, 25 जी एवं 25 एच औद्योगिक विवाद अधिनियम 1947 की पालना नहीं की गयी है। अप्रार्थी द्वारा अनफेयर लेबर प्रेक्टिस की नीति अपनाते हुये उनकी सेवा अवधि को बार-बार अनाधिकृत रूप से बढ़ाया गया है। अतः सभी श्रमिकगणों को पुनः सेवा में बहाल कर सभी लाम-परिलाम दिलाये जावें।

3. अप्रार्थीगण की ओर से स्टेटमेंट ऑफ क्लेम का जवाब पेश कर कथन किया कि श्रमिकगण द्वारा लगातार 240 दिन से अधिक कार्य किया हो, ऐसा कोई प्रलेख प्रस्तुत नहीं किया है। श्रमिकगणों को दैनिक वेतन भोगी के रूप में निर्धारित समय के लिये ट्रेक पेट्रोलिंग के कार्य हेतु रखा गया था। श्रमिकों की सेवाअवधि दिनांक 05.07.86 को स्वतः ही समाप्त हो चुकी है। श्रमिकगणों पर धारा औद्योगिक विवाद अधिनियम 1947 के प्रावधान लागू नहीं होते हैं। अतः प्रार्थीगण का क्लेम खारिज किया जावे।

4. दिनांक 28.01.2005 को न्यायाधिकरण द्वारा एक अवार्ड पारित कर यह अभिनिर्धारित किया गया :-

01. श्रमिक भंवर सिंह पुत्र मेधाराम व बदर सिंह पुत्र दुर्जन सिंह का कोई क्लेम पेश नहीं होने के

कारण इन दोनों के संबंध में नो डिस्पुट अवार्ड पारित किया जाता है।

02. भंवर सिंह पुत्र रूप सिंह एवं जेबर सिंह पुत्र दुर्जन सिंह ने क्लेम पेश किया है, किन्तु उनका कोई विवाद पेश नहीं हुआ है, अतः इनके संबंध में कोई अवार्ड पारित नहीं किया जा सकता।
03. हुसेन अब्बास ने कोई साक्ष्य पेश नहीं की है। दयाराम पुत्र मुंशीराम, केसराराम पुत्र चितराराम, सुरेश कुमार पुत्र राम कुमार व शम्भूदयाल पुत्र जोधाराम ने अप्रार्थी संस्थान में 240 दिन कार्य नहीं किया है। अतः वे कोई राहत पाने के अधिकारी नहीं हैं।
04. शेष सभी श्रमिकगण सर्वश्री रामचन्द्र पुत्र कालूराम, रामनरेश पुत्र प्रभूदयाल, रामचन्द्र पुत्र श्यामलाल, रमेश कुमार पुत्र रामकिशन, रामकुमार पुत्र सीताराम, जवाहर लाल पुत्र बीरबल, रामदुलारा पुत्र बाबूराम, रामधनी पुत्र माताफेयर, रामजस पुत्र रामसमझ, घनश्याम पुत्र भीखू प्रसाद व बोदू खां पुत्र सुल्तान खां कुल 11 श्रमिकों की सेवामुक्ति अनुचित व अवैध है, जिसे अपास्त किया जाता है और ये श्रमिकगण अपने पिछले समस्त वेतन एवं अन्य सभी लाभ सहित पुनः सेवा में नियोजित होने के अधिकारी हैं।
5. इसके खिलाफ रेलवे प्रशासन ने माननीय उच्च न्यायालय में रिट याचिका पेश की गयी। जिसमें मात्र 07 वर्षों की देरी जो प्रार्थीगण/श्रमिकगण के द्वारा की गयी थी, के आधार माननीय उच्च न्यायालय ने भी इसी बिन्दु पर मामले को रिमांड किया है कि 07 वर्ष की देरी जो हुयी है, उसका इस अधिकरण द्वारा, जो अनुतोष प्रदान किया गया है, उस पर क्या प्रभाव पड़ेगा।
6. उक्त आदेश के खिलाफ माननीय उच्च न्यायालय की खण्डपीठ के समक्ष स्पेशल अपील पेश की गयी, जो खारिज की गयी और माननीय उच्च न्यायालय की एकलपीठ द्वारा पारित निर्णय की पुष्टि की गयी।
7. मेरे विनम्र मत में अधिसंख्यक श्रमिकगण को दिनांक 05.07.86 को सेवा से निष्कासित किया गया है। सभी श्रमिकगण अस्थायी श्रमिक थे। किसी भी श्रमिक को नियुक्ति पत्र देकर स्थायी पद पर नियुक्त नहीं किया गया। ऐसी दश में इस अधिकरण द्वारा पारित निर्णय दिनांक 28.01.05 को जो निष्कर्ष निकाला गया है, न तो उसे चैलेंज किया गया है और न ही माननीय एकलपीठ द्वारा उस निष्कर्ष बाबत पुनर्विवेचना करने का निर्देश प्रदान किया गया है। अतः हमारे समक्ष अब केवल इतना

मुद्दा रह गया है कि जिन 11 श्रमिकों को पिछले बकाया वेतन सहित एवं लाभ-परिलाभ सहित पुनः सेवा में लिये जाने का जो आदेश दिया गया है, उस अनुतोष को क्या समाप्त किया जाता सकता है या उस अनुतोष में कोई संशोधन किया जा सकता है। इस सीमा तक ही दोनों पक्षों के तर्क सुनकर निर्णय पारित किया जाना है।

8. इस संबंध में प्रार्थीगण/श्रमिकगण के विद्वान अधिवक्ता ने तर्क पेश किया कि न्यायाधिकरण द्वारा दिनांक 28.01.05 को श्रमिकगण के पक्ष में अवार्ड पारित किया गया है। दिनांक 05.07.86 को श्रमिकगण को सेवापश्चक किया गया है, जबकि प्रत्येक श्रमिकगण द्वारा 240 दिन से अधिक कार्य किया गया है। अप्रार्थी द्वारा श्रमिकगण को रेल पथ के रख रखाव के कार्य के लिये नियुक्त किया गया था, जो स्थाई प्रकृति का कार्य है। श्रमिकगण द्वारा 1983 से 05.07.86 तक लगातार काम किया गया है। प्रार्थीगण के विद्वान प्रतिनिधि का तर्क है कि श्रमिकगण ने जानबूझकर विवाद देरी से पेश नहीं किया बल्कि दिनांक 04.07.92 को श्रमिकगण से कनिष्ठ श्रमिकों को स्क्रीनिंग के लिये बुलाकर उनको नियुक्ति दे दी गयी और श्रमिकगण को कोई नियुक्ति नहीं दी गयी। जिस पर दिनांक 30.10.92 को श्रमिकगण द्वारा विवाद पेश कर दिया गया। अतः प्रार्थीगण द्वारा विवाद जानबूझकर देरी से पेश नहीं किया गया है। अतः श्रमिकगण पुनः सेवा में नियोजित होने एवं समस्त पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी हैं। प्रार्थीगण के विद्वान अधिवक्ता द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं:-

01. 2008-आई-एलएलजे 894 (एससी) स्टेट बैंक ऑफ इण्डिया व अन्य बनाम कृष्णा ग्रामीण बैंक एम्पलॉयज यूनियन व अन्य।
02. ए.आई.आर. 1999 सुप्रीम कोर्ट 1351 अजयब सिंह बनाम श्रीहिंद कॉर्पोरेटिव मार्केटिंग कम प्रोसेसिंग सर्विस सोसायटी लि.
03. ए.आई.आर. 2003 एस.सी. 3553 एस.एम. निलाजकर बनाम टेलीकॉम डिस्ट्रिक्ट मैनेजर, कर्नाटका।
04. (2010) 1 एससीसी 47 गवर्नमेंट ऑफ गुजरात बनाम भैखुभाई मेघाजीभाई छावदा।
05. 2008 (116) एफएलआर 366 एच.एल.आर. एण्ड डी. कॉ. लि. बनाम निर्मल कुमार (एस.सी.)

9. अप्रार्थी के विद्वान अधिवक्ता का तर्क है कि माननीय न्यायाधिकरण द्वारा 07 वर्ष की डिले के आधार पर प्रकरण को रिमांड किया है। श्रमिकगण दैनिक वेतन भोगी कर्मचारी थे, जिन्हें एक स्पेशिफिक कार्य के लिये

रखा गया था, जो समाप्त हो जाने पर उन्हें हटा दिया गया। श्रमिकगण को कोई नियुक्ति आदेश जारी नहीं किया और न ही उनको सेवा से हटाने के संबंध में कोई आदेश अप्रार्थी की ओर से जारी किया गया है। अप्रार्थी द्वारा कोई वरिष्ठता सूची तैयार नहीं की गयी। श्रमिकगण पर औद्योगिक विवाद अधिनियम 1947 के प्रावधान लागू नहीं होते हैं। अतः क्लेम खारिज किया जावे। अप्रार्थी के विद्वान अधिवक्ता द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 2002 (1) डब्ल्यू एल सी राज. 501 डिवीजनल फोरेस्ट आफिसर बनाम रघुवीर।
02. 1997 (2) डीएनजे राज. 670 इंडियन नेशनल बैंक एम्पलॉयज बनाम सेन्ट्रल इन्डस्ट्रियल ट्रिब्युनल।
03. 2006 (4) एससीसी 1 स्टेट ऑफ कर्नाटका बनाम उमा देवी।
04. 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार
05. 2009 (15) एससीसी 327 जगवीर सिंह बनाम हरियाणा स्टेट एग्रीकल्चर।
06. एस.बी. सी.डब्ल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012
07. 2001 (1) डब्ल्यू एलसी राज. 592 रामगोपाल सैनी बनाम जज लेबर कोर्ट
10. उभय पक्षों की बहस सुनी गयी तथा उभय पक्ष की ओर से प्रस्तुत न्यायिक दृष्टांतों का बारीकी से अधोपांत विनम्रतापूर्वक अवलोकन किया गया।
11. माननीय सर्वोच्च न्यायालय द्वारा न्यायिक दृष्टांत 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार तथा एस.बी. सी. डब्ल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012 में माननीय उच्च न्यायालय द्वारा अभिनिर्धारित किया गया है कि इस तरह के दैनिक वेतन भोगी श्रमिकगण जिन्होंने 1-2 वर्ष ही कार्य किया हो तो उनको सेवा में वापिस लिये जाने का आदेश तथा बकाया वेतन भत्तों के दिलाये जाने के आदेश को उचित नहीं माना है, बल्कि ऐसे मामलों में श्रमिकगणों को एकमुश्त क्षतिपूर्ति की राशि दिया जाना उचित माना है। माननीय सर्वोच्च न्यायालय तथा माननीय उच्च न्यायालय के नवीनतम निष्कर्षों को मद्देनजर रखते हुये इन 11 श्रमिकगणों को पिछला

वेतन एवं अन्य सभी लाभ दिया जाना तथा सेवा में पुनः नियोजित करना उचित नहीं समझता हूँ। निष्कासन के 07 वर्ष बाद यह दैनिक वेतन भोगी श्रमिकगण न्यायिक प्रक्रिया हेतु आये हैं, यह देरी इनके लिये घातक है। उक्त दोनों न्यायिक दृष्टांतों के प्रकाश में प्रत्येक प्रार्थीगण/श्रमिकगण को पचास-पचास हजार रुपये क्षतिपूर्ति राशि के रूप में दिये जाने से न्याय के उद्देश्य की पूर्ति हो जायेगी। 2010(III) डी.एन.जे. (एस.सी.) 1019 सीनियर सुप्रीटेंडेंट टेलीग्राफ (ट्रेफिक) बनाम संतोष कुमार के पैरा संख्या 08 में इस बारे में महत्वपूर्ण दिशा-निर्देश प्रदान करता है। इसी तरह एस.बी. सी. डब्ल्यू. नंबर 281/2012 किशन व अन्य बनाम जज लेबर कोर्ट संख्या 02 में निर्णय दिनांक 08.01.2012 के अन्तिम दो पैराग्राफ में भी इस बारे में मार्गदर्शन प्रदान करते हैं। लिहाजा इन नवीनतम न्यायिक दृष्टांतों में प्रदान किये गये दिशा-निर्देशों के मुताबिक प्रत्येक श्रमिक को केवल पचास-पचास हजार रुपये क्षतिपूर्ति राशि अदा कर देने से न्याय के उद्देश्य की पूर्ति हो जायेगी। प्रार्थीगण के स्तर पर निष्कासन के बाद 07 वर्षों तक कोई कार्यवाही नहीं की गयी और इस देरी का कोई संतोषजनक कारण भी पेश नहीं किया गया है। अतः यह देरी क्षम्य नहीं है। इस 07 वर्ष की देरी हो जाने के कारण श्रमिकगण सेवा में पुनर्नियोजित होने एवं पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी नहीं हैं।

12. प्रार्थी प्रतिनिधि की ओर से प्रस्तुत न्यायिक दृष्टांतों का मैंने बारीकी से अधोपांत विनम्रतापूर्वक अवलोकन किया। उपरोक्त सभी दृष्टांतों के तथ्य एवं परिस्थितियों हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भारी भिन्नता रखते हैं, अतः उक्त सभी न्यायिक दृष्टांत प्रार्थीगण/श्रमिकगण के केस में लागू नहीं होते हैं। अप्रार्थी की ओर से प्रस्तुत न्यायिक दृष्टांतों में प्रतिपादित सिद्धांतों में दिये गये दिशा-निर्देश हस्तगत प्रकरण में लागू होते हैं, जिनका प्रभाव ऊपर विवेचना में दिया गया है।

13. उपरोक्त विवेचन के फलस्वरूप प्रकरण में निम्न अवार्ड पारित किया जाता है :-

01. श्रमिक भंवर सिंह पुत्र मेधाराम व बदर सिंह पुत्र दुर्जन सिंह का कोई क्लेम पेश नहीं होने के कारण इन दोनों के संबंध में नो डिस्पुट अवार्ड पारित किया जाता है।
02. भंवर सिंह पुत्र रूप सिंह एवं जेबर सिंह पुत्र दुर्जन सिंह ने क्लेम पेश किया है, किन्तु उनका कोई विवाद पेश नहीं हुआ है, अतः इनके संबंध में कोई अवार्ड पारित नहीं किया जा सकता।

03. हुसेन अब्बास ने कोई साक्ष्य पेश नहीं की है। दयाराम पुत्र मुंशीराम, केसराराम पुत्र चिताराम, सुरेश कुमार पुत्र राम कुमार व शम्भूदयाल पुत्र जोधाराम ने अप्रार्थी संस्थान में 240 दिन कार्य नहीं किया है। अतः वे कोई राहत पाने के अधिकारी नहीं हैं।

04. शेष सभी श्रमिकगण सर्वश्री रामचन्द्र पुत्र कालूराम, रामनरेश पुत्र प्रभूदयाल, रामचन्द्र पुत्र श्यामलाल, रमेश कुमार पुत्र रामकिशन, रामकुमार पुत्र सीताराम, जवाहर लाल पुत्र बीरबल, रामदुलारा पुत्र बाबूराम, रामधनी पुत्र माताफेयर, रामजस पुत्र रामसमझ, घनश्याम पुत्र भीखू प्रसाद व बोदू खां पुत्र सुल्तान खां कुल 11 श्रमिकों की सेवामुक्ति उचित व अवैद्य है, श्रमिकगण इस 07 वर्ष की देरी हो जाने के कारण श्रमिकगण पुनः नियोजित होने एवं पिछला लाभ-परिलाभ प्राप्त करने के अधिकारी नहीं होंगे। उपरोक्त 11 श्रमिकगणों में से प्रत्येक श्रमिकगण को पचास-पचास हजार रुपये क्षतिपूर्ति राशि के रूप में दिलाये जाते हैं।

14. अवार्ड आज दिनांक 10.10.2013 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

हेमन्त कुमार जैन, पीठासीन अधिकारी

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ राजस्थान लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 40/91) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/237/91-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 40/91) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bank of Rajasthan Ltd. and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/237/91-IR (B-1)]

SUMATI SAKLANI, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 40/91

रेफरेंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश कमांक एल-12012/237/91-आई. आर.(बी.3) दिनांक 13.08.1991

श्री मिट्ठू सिंह चौहान पुत्र श्री सवाई सिंह, भू०पू० चतुर्थ श्रेणी कर्मचारी, गांव कालीन्जर पो० कालीन्जर, वाया ब्यावर, जिला-अजमेर, राज. द्वारा श्री कान सिंह राठौड़, प्लॉट नंबर 858, देवी नगर, श्याम नगर पोस्ट आफिस के पीछे, न्यू सांगानेर रोड़, सोढाला, जयपुर

—प्रार्थी

बनाम

महाप्रबंधक, आई.सी.आई.सी.आई. बैंक लि., सरदार पटेल मार्ग, सी-स्कीम, जयपुर

—अप्रार्थी

उपस्थित :

पीठासीन अधिकारी : श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री आर.सी. जैन

अप्रार्थी की ओर से : श्री आलोक फतहपुरिया

दिनांक अवार्ड: 18.10.2013

अवार्ड

1. केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली ने उपरोक्त अधिसूचना के जरिये इस आशय का विवाद इस न्यायाधिकरण को अधिनिर्णय हेतु निर्देशित किया है कि "Whether the action of the management of the Bank of Rajasthan Ltd. central office jaipur in dismissing Sh. Mittu Singh w.e.f. 16.03.90 is legal and justified? If not, to what relief the workman is entitled to?"

2. विवाद जो भेजा गया उसके संबंध में प्रार्थी की ओर से स्टेटमेंट ऑफ क्लेम पेश हुआ कि प्रार्थी की नियुक्ति चतुर्थ श्रेणी कर्मचारी के स्थाई पद पर 283/-रु० माहवारी पर नियोजित किया गया। उसके बाद अन्य आदेशों से प्रार्थी की अवधि समय-समय पर बढ़ाई जाती रही। प्रार्थी को मिथ्या तथ्यों पर आधारित एक आरोप पत्र दिनांक 30.08.88 दिया गया। जिसमें जांच अधिकारी द्वारा प्राकृतिक न्याय के सिद्धांतों के विपरीत जांच

कार्यवाही पूर्ण कर प्रार्थी पर लगाये गये आरोप को सही माना। प्रार्थी द्वारा की गयी यात्रा के संबंध में सही तथ्य प्रस्तुत करने पर भी उसे रिकार्ड पर नहीं लिया और न ही उनके बयान लिये गये तथा रेलवे टिकटों का सत्यापन कराये बिना रेलवे द्वारा चाही गयी सूचना के संबंध में उसके बयान लिये बिना ही, सूचना को सही मानकर आरोप साबित मान लिया गया। प्रार्थी को अपने बचाव में सुनवाई का अवसर नहीं दिया गया। प्रार्थी द्वारा अपनी सेवामुक्ति के विरुद्ध सक्षम अधिकारी के समक्ष प्रस्तुत अपील भी प्रस्तुत तथ्यों पर गौर किये बना ही निरस्त कर दी गयी। इसके बाद एक शिकायत इस संबंध में सहायक श्रम आयुक्त(केन्द्रीय) को प्रस्तुत की गई जिसपर अप्रार्थी को समझौता वार्ता हेतु आमंत्रित किया गया लेकिन कोई समझौता नहीं होने से उपरोक्त विवाद भेजा गया है। प्रार्थी ने एल.एफ.सी. के बिल के भुगतान के लिये कोई धोखाधड़ी व बेइमानी नहीं की, बल्कि बैंक स्वयं ने जानबूझकर उसे नौकरी से निकालने के लिये पूर्वाग्रह से ग्रसित होकर ऐसा किया है, जो असंवैधानिक है। प्रार्थी के विरुद्ध समस्त कार्यवाही समझौता 1966 की धारा 19 के विपरीत की गयी है। प्रार्थी द्वारा बैंक में करीब 16-17 वर्ष तक बिना किसी शिकायत के सेवा अर्पित की है। अतः प्रार्थी की सेवामुक्ति को अनुचित एवं अवैध तथा शून्य करार दिया जाकर पिछला वेतन सेवाओं तथा समस्त सुविधाओं सहित सेवा में बहाल करने का अवार्ड पारित किया जावे।

3. अप्रार्थी बैंक की ओर से जवाब पेश हुआ। आरंभिक आपतियों में बताया कि प्रार्थी की नियुक्ति 10.1.85 से 30.3.85 तक ही की गई थी एवं दिनांक 30.3.85 को ही उसकी सेवा स्वतः समाप्त हो गई। प्रार्थी की ओर से यह विवाद 8 वर्ष बाद लाया गया है जिसका कोई संतोषप्रद कारण नहीं दर्शाया गया है अतः रैफरेंस मात्र इसी आधार पर खारिज होने योग्य है। दूसरा ऐतराज यह रहा है कि प्रार्थी को एक निश्चित अवधि के लिए नियुक्ति दी गई थी, उक्त अवधि के समाप्त होने पर उसकी सेवा स्वतः ही समाप्त हो जाती है अतः धारा 2(oo)(बीबी) अधिनियम के अनुसार प्रार्थी का रैफरेंस चलने योग्य नहीं है।

4. मदवार उत्तर प्रस्तुत करते हुए बताया कि प्रार्थी को प्रशिक्षु के रूप में दिनांक 24.07.74 को नियुक्त किया गया था। प्रार्थी को दिनांक 30.08.88 को एक आरोप पत्र दिया गया, जिसमें जांच अधिकारी द्वारा नियमानुसार जांच पूर्ण करने पर उसे दोषी मानकर अनुशासनिक अधिकारी द्वारा उसे व्यक्तिगत सुनवाई का अवसर देते हुये प्रश्नगत दण्डादेश पारित किया गया है, जो सही है। जहाँ तक प्रार्थी के पूर्व के आचरण का सवाल है, उसे पूर्व में भी बैंक के साथ धोखाधड़ी करने

के कारण बर्खास्त किया गया किन्ती अपीलीय अधिकारी ने प्रार्थी के विरुद्ध नरम रूख अपनाते हुये केवल पांच वेतन वृद्धि संचयी प्रभाव से रोकने के दण्ड से दण्डित किया गया था। प्रार्थी के विरुद्ध समझौता 1966 की धारा 19 के विपरीत कोई कार्यवाही नहीं की गयी। जांच अधिकारी द्वारा उसे बचाव व सुनवाई का पूरा अवसर देते हुये प्राकृतिक न्याय के सिद्धांतों के अनुसार जांच पूर्ण कर आरोप साबित माना है। अतः प्रार्थी द्वारा प्रस्तुत क्लेम खारिज किया जावे।

5. न्यायाधिकरण के आदेश दिनांक 14.12.95 द्वारा घरेलू जांच को अशुद्ध व अनुचित घोषित किया गया। साक्ष्य अप्रार्थी बैंक की ओर से श्री भगवत सिंह मेहता एवं श्री के.एन.पारीक के शपथ पत्र पेश हुये, जिनसे प्रार्थी प्रतिनिधि ने जिरह की है। साक्ष्य प्रार्थी में श्रमिक द्वारा स्वयं का शपथ पत्र पेश किया गया, जिससे अप्रार्थी प्रतिनिधि ने जिरह की है।

6. न्यायाधिकरण के आदेश दिनांक 17.12.2012 द्वारा अप्रार्थी दि बैंक ऑफ राजस्थान लि. का आई.सी.आई.सी. आई. बैंक लि. में संविलयन हो जाने के कारण महाप्रबंधक, आई.सी.आई.सी.आई. बैंक लि. को पक्षकार बनाया गया।

7. उभय पक्षों की बहस सुनी गयी। पत्रावली का अवलोकन किया गया।

8. प्रार्थी के विद्वान प्रतिनिधि का तर्क है कि न्यायाधिकरण द्वारा घरेलू जांच को अशुद्ध घोषित किया गया है। विधि का यह सुस्थापित सिद्धांत है कि घरेलू जांच के अनुचित एवं अवैध घोषित किये जाने के पश्चात् घरेलू जांच में प्रस्तुत साक्ष्य को मैटेरियल ऑन रिकार्ड नहीं माना जा सकता तथा ऐसी जांच के दौरान आई साक्ष्य को आरोप सिद्ध होने का आधार नहीं माना जा सकता। अप्रार्थी प्रतिनिधि द्वारा घरेलू जांच में आई साक्ष्य के आधार पर आरोप सिद्ध होना बताया है, लेकिन विपक्षी प्रतिनिधि का तर्क स्वीकार किये जाने योग्य नहीं है। अन्यथा भी घरेलू जांच में दिये गये बयानों से प्रार्थी के विरुद्ध आरोप सिद्ध नहीं होता। प्रार्थी पर लगाये गये आरोप को सिद्ध करने के लिये बैंक की ओर से प्रस्तुत गवाह श्री भगवत सिंह मेहता ने केवल घरेलू जांच के रिकार्ड पेश किया है, जिसे न्यायाधिकरण द्वारा अनुचित एवं अवैध घोषित किया जा चुका है, अतः श्री भगवत सिंह के बयानों का कोई महत्व नहीं है। अप्रार्थी की ओर से प्रस्तुत दूसरे गवाह के.एन. पारीक ने केवल प्रदर्श एम-1 से एम-8 तक के दस्तावेजों को प्रदर्शित किया है। उक्त गवाह ने भी अपने बयानों में ऐसा कोई कथन नहीं किया है कि प्रार्थी व उसके परिवार के सदस्यों ने ब्यावर से उदयपुर तथा जोधपुर से रामदेवरा की यात्रा नहीं की या प्रार्थी ने बैंक से गलत रूप से 310/-रु. का भुगतान प्राप्त करने की कोशिश की। प्रार्थी प्रतिनिधि का तर्क है

कि विपक्षी प्रतिनिधि की संपूर्ण बहस प्रदर्श एम-4 व प्रदर्श एम-6 पर आधारित है, उक्त दस्तावेज को लिखने वाले व्यक्तियों को न्यायाधिकरण के समक्ष न तो साक्ष्य में पेश किया गया और न ही प्रार्थी को उनसे जिरह का अवसर दिया गया, इसलिये इनके आधार पर आरोप साबित नहीं माना जा सकता। जहाँ तक प्रार्थी पर बैंक से गलत रूप से 310/-रु० के भुगतान प्राप्त करने का आरोप का प्रश्न है, यह आरोप भी साक्ष्य के अभाव में सिद्ध नहीं माना जा सकता। प्रार्थी प्रतिनिधि का कथन है कि द्वितीय श्रेणी का टिकिट यात्रा समाप्त होने पर रेलवे स्टेशन पर देना होता है और यात्रा करने पर एल.एफ.सी. बिल में उसके नम्बर भी अंकित करना आवश्यक नहीं है। संभवतया प्रार्थी को नम्बर अंकित करने को कहा गया हो और उसने अपनी याददाश्त के आधार पर नम्बर लिख दिये हो। लेकिन इस कारण से आरोप सिद्ध नहीं माना जा सकता। प्रार्थी पर लॉस ऑफ कानफिडेंस का कोई आरोप नहीं है। प्रार्थी को पूर्व में दिये गये दण्ड का इस जांच में कोई प्रभाव नहीं है। अतः प्रार्थी पर लगाया गया आरोप प्रस्तुत साक्ष्य से साबित नहीं होता है। अतः सेवामुक्ति आदेश अपास्त कर प्रार्थी को पिछले पूर्ण वेतन व अन्य सभी परिलामों सहित सेवा में बहाल किया जावे। प्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 1999 (81) एफ एल आर नीता कप्लिश बनाम पी.ओ. लेबरकोर्ट व अन्य।
 02. 1981 डब्ल्यू एल एन (यू सी) 457 (राज. डी.बी.) अमृतलाल बनाम स्टेट ऑफ राज.
 03. 1971 (23) एफ एल आर 273 बरेली इलेक्ट्रिसिटी सप्लाई कॉ. लि. बनाम श्रमिक व अन्य
 04. 2003(8) एससीसी 745 नर्बदा देवी गुप्ता बनाम विरेन्द्र कुमार जयसवाल व अन्य।
 05. 2009(2) एससीसी 570 रूप सिंह नेगी बनाम पंजाब नेशनल बैंक व अन्य।
 06. 1970 II एल एल जे-1 (एस सी) ट्रेवनकोर टाइटेनियम प्रो. लि. बनाम श्रमिक।
9. अप्रार्थी प्रतिनिधि ने अपनी बहस में बताया कि प्रार्थी द्वारा एल.एफ.सी. बिल प्रदर्श एम-1 1470/-रु० के भुगतान हेतु पेश किया गया। जिसमें दिनांक 27.01.87 को ब्यावर से उदयपुर एवं दिनांक 29.01.87 को जोधपुर से रामदेवरा की यात्रा करना बताया है, परन्तु उक्त यात्रा के जो टिकिट नंबर प्रार्थी द्वारा बताये गये हैं, वे न तो ब्यावर से जारी हुये हैं और न ही जोधपुर से जारी हुये हैं, यह तथ्य रेलवे प्रशासन की रिपोर्ट प्रदर्श एम-4 एवं एम-6 से साबित होता है। प्रार्थी पर

लगाये गये आरोप को सिद्ध करने हेतु श्री कमल नयन एवं भगवत सिंह मेहता को पेश किया गया है, जिनकी साक्ष्य से प्रार्थी पर लगाये गये आरोप सिद्ध होता है। प्रार्थी ने अपनी प्रतिपरीक्षा में भी प्रदर्श एम-1 बैंक को देना स्वीकार किया गया है। प्रार्थी को पूर्व में भी बैंक के साथ धोखाधड़ी करने के आरोप में सेवामुक्ति किया जा चुका है, जिसमें अपील करने पर अपीलीय अधिकारी द्वारा नरम रूख अपनाकर प्रार्थी को पांच वार्षिक वेतन वृद्धियाँ संचयी प्रभाव से रोके जाने का दण्ड दिया है। प्रार्थी द्वारा ढाई वर्ष के बच्चे का भी पूरा टिकिट लेना बताया है, जबकि ढाई वर्ष के बच्चे का कोई टिकिट नहीं लगता है। प्रार्थी द्वारा दिनांक 29.01.87 को रात 10.30 बजे उदयपुर से रवाना होकर दिनांक 30.01.87 को रामदेवरा सुबह पहुंचना बताया है और दिनांक 30.01.87 को रामदेवरा से अजमेर के लिये रवाना होना बताया है, जो कि संभव नहीं है। प्रार्थी द्वारा प्रतिपरीक्षा में पिछले दण्ड को भी स्वीकार किया गया है। अतः प्रार्थी पर लगाया गया आरोप पूर्णतया सिद्ध होता है। अतः क्लेम खारिज किया जावे। अप्रार्थी प्रतिनिधि द्वारा अपने तर्कों के समर्थन में निम्न न्यायिक दृष्टांत पेश किये गये हैं :-

01. 1998 एल एल आर 861 (एस.सी.) इंडियन काउंसिल ऑफ मैडीकल रिसर्च व अन्य बनाम डॉ. अनिल कुमार घोष व अन्य।
 02. 2004(104) एफजेआर (एस.सी.) 715 इंजीनियरिंग लघु उद्योग एम्पलॉयी यूनियन बनाम जज लेबर कोर्ट व अन्य।
 03. 1998 डब्ल्यू एल सी (यू.सी.) पेज 703 आरएसआरटीसी बनाम जज इन्डस्ट्रियल ट्रिब्यूनल व अन्य।
10. उभय पक्षों के तर्कों का मनन किया एवं प्रस्तुत न्यायिक दृष्टांतों का अद्योपांत बारीकी से ससम्मान अध्ययन व अवलोकन किया।
11. पत्रावली के अवलोकन से प्रकट होता है कि प्रार्थी को एक आरोप पत्र दिनांक 30.08.88 को इस आशय का जारी किया गया कि आप द्वारा प्रस्तुत एल.एफ.सी. बिल में दिनांक 27.01.87 को टिकिट संख्या 81792 से 81798 के द्वारा ब्यावर से उदयपुर एवं दिनांक 29.01.87 को टिकिट संख्या 08546 से 08551 द्वारा जोधपुर से रामदेवरा रेलवे द्वारा द्वितीय श्रेणी में आप एवं आपके परिवारजन द्वारा यात्रा करना एवं कमशः रु० 175/- एवं 126/- खर्च होना दर्शाया, जिनकी जांच कराने पर उपरोक्त नम्बरों के टिकिटों द्वारा यात्रा नहीं करने एवं बैंक से गलत रूप से 301/-रु० का भुगतान प्राप्त करने का आरोप लगाया गया। उक्त आरोप के संबंध में न्यायाधिकरण द्वारा घरेलू जांच को अशुद्ध घोषित किया

गया है। अतः अब न्यायाधिकरण को यही देखना है कि न्यायाधिकरण में प्रस्तुत साक्ष्य से प्रार्थी पर आरोप साबित होता है अथवा नहीं। अप्रार्थी बैंक की ओर से श्री भगवत सिंह एवं के.एन. पारीक द्वारा न्यायाधिकरण के समक्ष साक्ष्य पेश की गयी। गवाह के.एन. पारीक ने अपने बयानों में मिठू सिंह द्वारा दिनांक 23.04.87 को एल.एफ.सी. बिल प्रदर्श एम-1 का क्लेम प्रस्तुत करना बताया है, जिसके साथ प्रार्थी द्वारा एक स्टेटमेंट व किराये की रसीदें व बस की टिकिट इत्यादि पेश किये गये। इस तथ्य को प्रार्थी ने अपनी प्रतिपरीक्षा में भी स्वीकार किया है। उक्त गवाह द्वारा प्रार्थी द्वारा बतायी टिकिट नंबरों की सत्यता की जांच करने के लिये दिनांक 19.08.87 को रेलवे मास्टर को एक पत्र लिखा गया, जो प्रदर्श एम-2 है, जिस पर गवाह श्री पारीक ने अपने हस्ताक्षर होना बताया है। जिसका जवाब प्रदर्श एम-4 है। इसी प्रकार जोधपुर से रामदेवरा की यात्रा की टिकिट संख्या की सत्यता की जांच के लिये एक पत्र गवाह ने अपने हस्ताक्षर से जारी करना बताया है, जो प्रदर्श एम-5 है, जिसका जवाब प्रदर्श एम-6 है। उक्त दस्तावेज के अवलोकन से यह प्रतीत होता है कि प्रार्थी द्वारा प्रदर्श एम-1 एल.एफ.सी. बिल क्लेम बाबत पेश किया गया है, जिसमें प्रार्थी द्वारा ब्याबर से उदयपुर की यात्रा टिकिट नंबर 81792 से 81798 के जरिये करना बताया। उक्त टिकिटों के नंबरों की सत्यता की जांच कराने पर प्रदर्श एम-4 द्वारा स्टेशन सुप्रीटेंडेंट, ब्याबर द्वारा उक्त टिकिटें दिनांक 27.01.87 को ब्याबर से द्वितीय श्रेणी की जारी नहीं होना बताया। इसी प्रकार उत्तर रेलवे प्रबंधन द्वारा भी प्रदर्श 06 द्वारा प्रार्थी द्वारा प्रस्तुत जोधपुर से रामदेवरा की टिकिट संख्या 08546 से 08551 जोधपुर से जारी नहीं होना बताया है। अतः मेरे विनम्र मत में प्रार्थी द्वारा उक्त फर्जी टिकिट नंबर बताकर गलत तरीके से बैंक से भुगतान उठाने की प्रयास किया है। प्रार्थी प्रतिनिधि का यह तर्क रहा है कि उक्त प्रदर्श एम-4 एवं प्रदर्श एम-6 की सत्यता को साबित करने हेतु उक्त दस्तावेजात् जारी करने वाले को साक्ष्य में पेश नहीं किया गया है और न ही उनसे जिरह का अवसर दिया गया है, इस संबंध में प्रस्तुत उक्त दोनों ही दस्तावेजात् रेलवे प्रबंधन द्वारा जारी हुये है, जिन पर रेलवे की मुद्रा एवं हस्ताक्षर दोनों अंकित है। उक्त दस्तावेजात् न्यायाधिकरण के समक्ष प्रदर्शित हुये हैं और प्रदर्शित दस्तावेज की सत्यता पर संदेह नहीं किया जा सकता। अतः प्रार्थी प्रतिनिधि का उक्त तर्क स्वीकार किये जाने योग्य नहीं है। प्रार्थी द्वारा प्रस्तुत क्लेम प्रदर्श एम-1 में दिनांक 29.01.87 को उदयपुर से जोधपुर की यात्रा रेल द्वारा करना बताया है, जिसमें परिवार के 07 जनों की टिकिट राशि 301/-रु० के भुगतान हेतु क्लेम किया है, जबकि प्रार्थी के परिवार के 07 जनों में से एक बालक ढाई वर्ष का है और ढाई वर्ष

के बच्चे का रेल अथवा बस में कहीं भी कोई टिकिट नहीं लगता है। अतः मेरे विनम्र मत में प्रार्थी द्वारा गलत तरीके से एल.एफ.सी. बिल प्रस्तुत कर 301/-रु० का भुगतान प्रार्थी द्वारा उठाना प्रमाणित होता है।

12. प्रार्थी का पूर्व आचरण भी संतोषप्रद नहीं रहा है। प्रार्थी को पूर्व में भी क्षेत्रीय कार्यालय के पत्र दिनांक 20.06.86 द्वारा उसके विरुद्ध धोखाधड़ी के आरोप में बैंक की सेवाओं से पृथक किया गया था, परन्तु अपील अधिकारी द्वारा प्रार्थी की अल्प आयु एवं पारिवारिक उत्तरदायित्व को देखते हुये एवं मानवीय आधार पर विचार करके प्रार्थी को पांच वार्षिक वेतन वृद्धियाँ संचयी प्रभाव से रोकने के दण्ड से दण्डित किया जा चुका है। अतः बैंक के प्रबंधन द्वारा कर्मचारी में लोस ऑफ कॉन्फिडेंस हो जाना भी प्रकट होता है। कर्मचारी के सेवापृथक आदेश में भी इस तथ्य का उल्लेख है।

13. उभय पक्षों की ओर से प्रस्तुत न्यायिक दृष्टांतों का मैंने बारीकी से अध्योपांत विनम्रतापूर्वक अवलोकन किया। प्रार्थी प्रतिनिधि द्वारा प्रस्तुत सभी दृष्टांतों के तथ्य एवं परिस्थितियों हस्तगत प्रकरण के तथ्यों एवं परिस्थितियों से भारी भिन्नता रखते हैं, अतः उक्त सभी न्यायिक दृष्टांत प्रार्थी श्रमिक के केस में लागू नहीं होते हैं।

14. उपरोक्त विवेचन के फलस्वरूप प्रार्थी का क्लेम स्वीकार होने योग्य नहीं है अतः भारत सरकार द्वारा भेजे गये रैफरेंस का उत्तर निम्न प्रकार दिया जाता है:

“अप्रार्थी बैंक प्रबंधन द्वारा श्री मिठू सिंह, च०श्रे०कर्मचारी को दिनांक 16.03.90 से समाप्त किये जाने की कार्यवाही उचित एवं वैध है। प्रार्थी किसी अनुतोष का अधिकारी नहीं है।”

15. अवार्ड आज दिनांक 18.10.2013 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

हेमन्त कुमार जैन, पीठासीन अधिकारी

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भीलवाडा अजमेर क्षेत्रीय ग्रामीण बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जयपुर के पंचाट (संदर्भ संख्या 05/1992) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/141/1990-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/1992) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jaipur as shown in the Annexure, in the industrial dispute between the management of Bhilwara Ajmer Kshetraya Gramin Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/141/1990-IR (B-I)]

SUMATI SAKLANI, Section Officer

अनुबन्ध

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

केस नं० सी.आई.टी. 05/1992

रैफरेंस : केन्द्र सरकार, श्रम मंत्रालय, नई दिल्ली का आदेश क्रमांक एल-12012/141/1990-आई.आर.बी.-I दिनांक 23.01.1992

श्री एम.एल. कराडिया मार्फत जनरल सीक्रेटरी, ग्रामीण बैंक एम्प्लॉईज यूनियन, 37, तबेला, गुलाब पथ, चौमू हाउस, सी-स्कीम, जयपुर

...प्रार्थी

बनाम

अध्यक्ष, भीलवाड़ा अजमेर क्षेत्रीय ग्रामीण बैंक, सुभाष नगर, भीलवाड़ा

...अप्रार्थी

उपस्थित

पीठासीन अधिकारी : श्री हेमन्त कुमार जैन, आर.एच.जे.एस.

प्रार्थी की ओर से : श्री आर.सी. जैन

अप्रार्थी की ओर से : श्री सुरेन्द्र सिंह

दिनांक अवार्ड : 10.04.2014

अवार्ड

1. भारत सरकार की उपरोक्त अधिसूचना के जरिये निम्न अनुसूची का विवाद “Whether Shri M.L. Karadia, officer of the Bhilwara Ajmer Kshetriya Gramin Bank is a workman of the bank as defined in the Industrial Dispute Act 1947? If so, whether the action of the bank management in extending the period of probation of Shri M.L. Karadia was Justified? If not, to what relief Shri Karadia is entitled to?” अधिनिर्णय हेतु इस अधिकरण को प्राप्त हुआ है।

2. रैफरेंस प्राप्त होने के बाद दर्ज रजिस्टर किया जाकर प्रार्थी को नोटिस जारी किये गये कि वे अपना स्टेटमेंट ऑफ डिमाण्ड पेश करें। प्रार्थी यूनियन की ओर से श्री आर.सी. जैन ने स्टेटमेंट ऑफ क्लेम पेश किया तथा पत्रावली जवाब स्टेटमेंट ऑफ क्लेम हेतु लंबित थी। इस प्रकम पर दिनांक 10.04.2014 को उभय पक्षों ने जाहिर किया कि उभय पक्षों के

बीच राजीनामा हो गया है अतः इस प्रकरण को वे चलाना नहीं चाहते हैं।

4. चूंकि श्रमिक एवं प्रबंधन के बीच राजीनामा हो चुका है और श्रमिक की प्रकरण को आगे चलाने में रुचि नहीं है। अतः प्रकरण में निम्न अवार्ड पारित किया जाता है :-

अवार्ड

“प्रार्थी श्री एम.एल. कराडिया एवं प्रबंधन के बीच राजीनामा हो जाने एवं प्रार्थी प्रतिनिधि द्वारा प्रकरण को आगे चलाने में रुचि नहीं रखने के कारण प्रार्थी श्री एम.एल. कराडिया इस रैफरेंस के जरिये कोई राहत पाने का अधिकारी नहीं है।”

5. अवार्ड आज दिनांक 10.04.2014 को खुले न्यायालय में लिखाया जाकर सुनाया गया जो केन्द्र सरकार को प्रकाशनार्थ नियमानुसार भेजा जावे।

हेमन्त कुमार जैन, पीठासीन अधिकारी

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आईसीआईसीआई बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 45/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/71/2012-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of ICICI Bank and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/71/2012-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 31st October, 2014

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 45/2013

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10

of the Industrial Disputes Act, 1947(14 of 1947), between the Management of ICICI Bank and their workman].

BETWEEN

Sri M. Lakshmanan : 1st Party/Petitioner

AND

The Chief Manager : 2nd Party/Respondent
ICICI Bank Ltd.
ICICI Towers
Ambattur Estate,
Ambattur,
Chennai

Appearance :

For the 1st Party/ : M/s K. Krishnamoorthy,
Petitioner Advocates

For the 2nd Party/ : M/s S. Ramasubramaniam
Respondent and Associates, Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-12012/71/2012-IR (B.I) dated 21.03.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of ICICI Bank Ltd., Chennai in terminating the services of Sri M. Lakshmanan without conducting an enquiry is legal and justified? If not, to what relief the workman is entitled?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 45/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and filed claim and counter statement respectively. The petitioner has filed rejoinder in answer to the Counter Statement

3. The averments in the Claim Statement filed by the petitioner in brief are as below:

The petitioner joined the services of Bank of Madura as a Clerk on 04.02.1980. Bank of Madura got merged with the Respondent Bank in the year 2000. The petitioner continued in service as a Clerk even after the merger and has become employee of the Respondent. The petitioner is a workman within the meaning of Section-2(s) of the Industrial Dispute Act. The workers of Bank of Madura had a Union by name Madura Bank Employees Union. The Respondent Bank had frowned upon any attempt to form any Union. When Bank of Madura was acquired by the Respondent Bank, the Union of Madura Bank was renamed as ICICI Bank Employees Union under the same registration number. The Respondent Bank did not like this. To achieve its union free policy the Respondent

started indulging in various unfair labour practices against the members of the Union. About 700 workmen who were originally appointed by Bank of Madura were targeted under the guise of a scheme called Early Retirement Option. The petitioner had filed Writ Petition against the discrimination shown towards workers of Bank of Madura. With a view to reduce the strength of the Union the Respondent had forced the Clerical Cadre employees to accept promotions so as to put an end to their participation in the Union. Many of the members had accepted this promotion to safeguard their livelihood. The strength of the Union members had become 230 in the year 2009. The Respondent Bank had already dissolved the Unions viz. Sangli Bank Employees Union and the Union of Bank of Rajasthan within a year of merger of Sangli Bank and Bank of Rajasthan respectively with the respondent. The ICICI Bank Employees Union raised Charter of Demands for wage increase and other issues and the same was pending consideration. On 22.05.2010 the Director of the Respondent Bank threatened the petitioner stating that he should not represent the cause of the workers. The petitioner who was the General Secretary of the Union had represented before the Management for revision of HRA. The Respondent punished the petitioner by transferring him to Sriperumbudur. Other Office Bearers of the Union were transferred to branches 500 kms. away. With ulterior motive the Respondent engineered false criminal complaints against the petitioner on the basis of three cheques of the year 2000 given by the petitioner to a co-employee and secured conviction in the three cases on 18.03.2010. The petitioner preferred appeal and the sentence imposed on the petitioner was suspended. Out of vendetta the Respondent terminated the service of the petitioner on 03.09.2010 on the basis that the petitioner was convicted in the criminal cases. Out of pressure by the Respondent the Secretary and President of the Union filed a Civil Suit seeking declaration that the petitioner had ceased to be the General Secretary of the Union since 18.03.2010, the date of conviction. The criminal appeals filed by the petitioner were allowed and the conviction and sentence of the petitioner by the Trial Court were set aside by the District and Sessions Judge, Kanchipuram Distt., Chengalpattu. In view of the acquittal of the petitioner by the Appellate Court, the ground on which the petitioner was terminated from service do not exist. The petitioner is entitled to be reinstated in service with back wages and other consequent benefits.

4. The Respondent has filed Counter Statement contending as follows:

While the petitioner was employed as a Clerk carrying out the duties of Cashier in Sriperumbudur Branch the Respondent had received complaints from two persons viz. Gopinath Ramadoss and Gopinath Ramesh. It was alleged in the complaints that the elder brother of these

two had started real estate business with the petitioner as Partner in 2001 and there were series of transactions wherein the petitioner had borrowed money from three brothers. It was also stated in the complaint that in the year 2002 they had paid Rs. 30,00,000/- to the petitioner and he has agreed to purchase property in Selaiyur and convey the same. The petitioner neither purchased property nor repaid the amount. The cheques issued by the petitioner were presented at the Bank and they were returned unpaid for want of funds. Accordingly, the criminal complaints were filed against the petitioner and the Judicial Magistrate of Alandur had found the petitioner guilty of the offence under Section-138 of the Negotiable Instruments Act and convicted him to undergo six months imprisonment and pay a fine of Rs. 5000/- in each of the cases. Considering the gravity of the allegations revealed by the complaints an internal fact finding meeting was conducted. A preliminary investigation was also held in which the complainants were given personal hearing. The Zonal Head of the Respondent had submitted report on the enquiry. It was revealed in the enquiry that even while continuing with his employment with the Respondent the petitioner had worked with the complainants and another to buy lands in and around Tambaram and to sell them and also to run a finance company. The petitioner used to borrow money from other partners through a series of transactions. He had issued cheques drawn on Lakshmi Vilas Bank and those were dishonoured. The Disciplinary Authority had concluded that the petitioner had issued cheques without maintaining sufficient balance, involved himself in financial and real estate business while continuing in the service of the Bank, indulged in a series of financial transactions with his Partners, was convicted by a Court of Law and was sentenced to undergo imprisonment for offence under Section-138 of Negotiable Instruments Act and did not disclose the said vital information to the Bank even though the criminal cases were initiated against him in the year 2009. Accordingly a decision was taken by the Disciplinary Authority to terminate the service of the petitioner. Under Section-10(1)(b) of the Banking Regulations Act, a person who is convicted by a Criminal Court for an offence involving moral turpitude cannot be retained in service. The Bank had lost confidence on the petitioner as he had indulged in financial business while in service even as per the judgment of the Criminal Court. There was no necessity for enquiry in the matter since the basis for loss of confidence is on facts that were not in dispute. The allegation in the Claim Statement that the petitioner was victimized because of his Union activities is not correct. In the judgment of the Sessions Court there has been no finding that the cheques were not issued by the petitioner. The acquittal was based on various other grounds and therefore reliance cannot be placed by the petitioner on his acquittal. The petitioner is not entitled to any relief.

5. The petitioner has filed rejoinder denying the allegations in the Counter Statement and reiterating his case in the Claim Statement.

6. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W50 and Ext.M1 to Ext.M25.

7. The points for consideration are:

- (i) Whether the action of the Respondent in terminating the service of the petitioner is legal and justified?
- (ii) What if any is the relief to which the petitioner is entitled?

The Points

8. The petitioner who had joined the service of Bank of Madura as a Clerk in the year 1980 had become the employee of the Respondent Bank after Bank of Madura got merged with the Respondent Bank in the year 2000. The petitioner was working in Sriperumbudur Branch of the Respondent when he was terminated from service. According to the Bank it had received two complaints against the petitioner from which it was revealed that the petitioner had been convicted and sentenced in three criminal cases CC 10, 11 and 12/2009 by the Judicial Magistrate, Alandur for offence under Section-138 of the Negotiable Instruments Act. The complainants had alleged that the petitioner had been a partner in the real estate business of their brother, that he had entered into a series of financial transactions with them and their brother, that he had agreed to purchase property and convey it to them and had obtained Rs. 10,00,000/- from each of them but had neither purchased the property nor had returned the amount and therefore the cheques issued by him were presented in the Bank and those were dishonoured and it was consequently Criminal Cases were initiated before the Magistrate Court under Section-138 of Negotiable Instruments Act. The Respondent Bank is said to have conducted a fact finding enquiry on the basis of these complaints. However, the petitioner was neither given a charge memo nor was allowed to participate in the enquiry or advance any defense. The Disciplinary Authority had felt that the petitioner had enough opportunity in the criminal cases and so there was no necessity to conduct an enquiry. Based on facts said to have revealed through the judgment of the Criminal Court and on hearing the complainants the Bank came to the conclusion that the petitioner had committed various misconducts including conducting of business while in the service of the bank and had terminated the service of the petitioner.

9. The case that is advanced by the petitioner in the Claim Statement is that he was being victimized by the Respondent. According to the petitioner it was the intention of the Respondent Bank to eliminate Trade

Unionism amongst workers. Though the Bank had obtained Bank of Madura along with its employees by merger, it never wanted the Madura Bank Employees Union to continue after merger. The Madura Bank Employees Union which was in existence while Bank of Madura was a separate entity had become ICICI Employees Union after merger. According to the petitioner, the Bank had resorted to the tactics of giving promotions to the employees of the workman category so that the Union could be dissolved. It has been pointed in the Claim Statement that Sangli Bank and Bank of Rajasthan also had got merged with the Respondent Bank and the Unions of these two banks were got dissolved within a year of the merger. It has been contended on behalf of the Respondent that the case of the petitioner that he was being victimized because of his Trade Union activity is without any basis. The counsel for the Respondent has referred to the admission by the petitioner during his examination that he has not disclosed about the pendency of the Criminal Cases to the Bank. The stand of the Respondent is that only when Gopinath Ramadoss and Gopinath Ramesh gave complaints to the bank referring to the conviction of the petitioner in the criminal cases, it came to know about the cases. According to the counsel this being the fact there is no basis for the contention that the cases themselves were engineered by the Respondent Bank in order to eliminate the petitioner from service because of his Trade Union activities. It is also pointed out by the counsel for the Respondent that only in the claim Statement the case that the Bank has engineered the entire thing appears for the first time. It is pointed out that in the conciliation proceedings or in the criminal cases there was no such case for the petitioner.

10. According to the petitioner only by the time Claim statement was filed the petitioner came to be aware of the victimization on the part of the Bank. The very termination of the petitioner from service on the basis of the conviction in the Criminal Cases is given as a reason by the petitioner for victimization. It is pointed out that immediately after termination the Union had passed a resolution to support the petitioner to seek justice against the order of termination. However, the Bank is said to have made the Office Bearers of the Union turn around and file suit against the petitioner for an order of injunction from his functioning as the General Secretary or in any manner in interfering with the affairs of the Union. The Bank itself is said to have given notice to the employees regarding the meeting to be convened and had obtained a dissolution of the Union on 05.10.2010. Ext.W46 would certainly show that email was sent by the Bank to the members of the Union to attend the meeting on 05.10.2010 on which date a resolution was passed for dissolving the Union.

11. The move against the petitioner by the Union was after he was convicted and he was terminated from service by the Bank. Certainly there is not enough material to show that criminal cases were initiated at the instance of the Bank. If it was the case, the Bank would not have waited for 7 months and until two complaints were received for terminating him from service. However, there could be no doubt that the Bank did not want Trade Unionism within its premises. MW1 had admitted during his examination that almost all the Clerical employees are already promoted under different attractive names and at present there are only 2 or 3 Clerical Staff under the Bank. He has also admitted that the Bank is not in the habit of recruiting new Clerical Staff. Now the Bank seems to be having staff of Officer cadre only practically in which there will be no necessity for a Trade Union in the Bank. The very email admittedly written by the Executive Director of the Bank to the petitioner and marked as Ext.W29 would show that the Bank was irritated with the Trade Union work of the petitioner. In Ext.W29 he has written that the petitioner is to focus on his career and work than trying to represent others. The petitioner is asked not to waste his energy and future by trying to be an employee leader. The Executive Director assures the petitioner that he himself will take care of the employees without the assistance of the petitioner. The petitioner is told to focus on his future. According to the Executive Director the petitioner has done more than enough for his colleagues and is not to waste his time leading 200 people for the wrong issues. The petitioner is warned that the 200 will not stand by him when he needs them. The above email communication is certainly a threat couched in the form of advice. The mind of the Bank can be read from this email letter expressed through the Executive Director. Even though there is no material to conclude that the criminal complaints were at the instance of the Bank, there is no doubt that the Bank was very much irritated with the petitioner because of his Trade Union activities. In all probability this must have motivated the Bank to act in the manner in which it has done on receipt of the complaints. Probably, the Bank was availing the opportunity to hit at the petitioner.

12. The counsel for the Respondent has relied upon the Section-10 of the Banking Regulations Act to justify the action taken against the petitioner without any enquiry. Section-10(1)(d)(i) of the Act states that no Banking Company shall employ or continue the employment of any person who at any time has been adjudicated insolvent or has suspended payment or has compounded with his creditors or who is or has been convicted by a Criminal Court of an offence involving moral turpitude. The Respondent relies upon the last limb of the section which states that a person who is or has been convicted by a Criminal Court for an offence involving moral turpitude cannot be allowed to continue in employment. According

to the counsel for the Respondent because of this provision in the Banking Regulations Act it was incumbent upon the Respondent to terminate the petitioner from service once the conviction of the petitioner was brought to its notice. According to him the Bank had no discretion vested in it otherwise than to terminate the services of the petitioner.

13. It is clear from Section-10(1)b) of the Banking Regulations Act that to terminate a person from service, it is not enough that there was conviction by a criminal court of an offence but the offence should be one involving moral turpitude. So the question arises whether an offence under Section-138 of NI Act is one involving moral turpitude. The counsel for the Respondent has referred to Ext.M15 and Ext.M17, the judgments of the Madras High Court in between the same parties to drive home his argument that it is an offence involving moral turpitude. As already stated the Office Bearers of the Trade Union had filed a suit against the petitioner making the Respondent Bank also in the opposite party array seeking a declaration that the petitioner is not entitled to function as a General Secretary of the Union consequent to his conviction by the Criminal Court. This was based on Section 21 A of the Trade Unions Act which states that a person who has been convicted of an offence involving moral turpitude is not entitled to function as the Office Bearer of the Union. An interim injunction order was obtained to this effect against the petitioner. Ext. M15 is the order of the Madras High Court in this application. In the order the Hon'ble High Court has held:

“In my considered view issuing a cheque and not honouring the same in spite of a notice of demand is definitely an offence involving moral turpitude”.

It was found that the plaintiff in the case has made out a prima facie case and balance of convenience is also in their favour. Accordingly an order of injunction was granted against the petitioner. The petitioner had filed appeal against the said order. Ext. M17 is the copy of the order of the Division Bench. In appeal the Division Bench, while considering whether the offence under Section-138 of the NI Act would involve moral turpitude has held:

“The appellant is a Bank employee and apart from that he is the General Secretary of the Union representing majority of the employees of the Bank. He is well versed with the Banking Regulations. Knowing fully well of the above, not only he had failed in his assurance to buy the property for three persons but he also formed a partnership firm while in service and also issued cheques knowing that those cheques would not be honoured. The above conduct would be a relevant factor while considering the conviction and sentence under Section-138 of NI Act. If both the

above conduct and subsequent conviction are taken together one must understand that the conviction and sentence would necessarily amount to an offence involving moral turpitude”.

14. It has been pointed out by the counsel for the Respondent that the above order of the Division Bench was affirmed by the Supreme Court when Special Leave Petition against that order was dismissed as seen from Ext. M18 the copy of the order. According to the counsel the above observations made in Ext. M15 and Ext. M17 are sufficient to hold that section-138 of the NI Act is an offence involving moral turpitude. It was even argued that the petitioner should have filed a revision petition and got the order reviewed if he is to be waved of the effect of the above observations, irrespective of the acquittal in the criminal cases.

15. According to the counsel for the petitioner the observations made in Ext. M15 and Ext. M17 need not be taken into account for the reason that they are observations made while considering whether the plaintiff in a suit has got a prima facie in the application seeking interim injunction. The counsel has referred to the decision of the Kerala High Court in GENERAL MANAGER (HR) VS. DEVADASS IN Writ Appeal No. 2095/2010 where the Division Bench has considered whether the offence under Section-138 of the NI Act is one involving moral turpitude. It was also a case where the workman was dismissed from service on conviction for offence under Section-138 of NI Act. The contention of the workman seems to have been that the amount borrowed by him has been repaid and the cheque given as security was misused. Considering this the Division Bench has held:

The defense taken by the Respondent may be true or may not be true but the appellants certainly were required to make some enquiry regarding the truth of the allegations made in defense by the Respondent before reaching a conclusion that the Respondent is guilty of offence involving moral turpitude. The mere fact that the Respondent was found guilty of an offence under Section-138 of NI Act by itself does not entitle the appellants to dismiss him from service.

16. When the decision was rendered the appeal filed by the appellant against the conviction and sentence was pending. The Division Bench has referred to the decision SASINDRAN NAIR VS. GENERAL MANAGER reported in 1996 2 KLT 482 where it was held:

We are of the view that an offence under Section-138 of the Act need not necessarily take within its wings the offence of cheating as defined in Section-415 of Indian Penal Code. A cause of action for criminal prosecution under Section-138 will arise not

on the date of issuance of the cheque but only when the drawer of the cheque fails to pay the amount within the statutory period after he is called upon by the payee through a notice. A person sometimes may issue a cheque knowing that there is no sufficient fund in his account but still with a hope that he would be able to make arrangements with his bankers to honour the cheque as and when it is presented by the drawee. Section-138 is in fact incorporated in the Negotiable Instruments Act only to give more credibility for cheques and not to cover areas which are already within the jurisdiction of criminal court for the offence of cheating. So the question whether the act of issuing a cheque without sufficient funds will involve moral turpitude has to be considered de hors the element of cheating.

In the same judgment it has been further stated:

We approve the said principle and hold that the question whether an offence would involve moral turpitude has to be decided on the facts of each case. All offences do not necessarily involve moral turpitude. Section-138 of the NI Act is no exception to the said principle. On the facts of the case we find no scope for holding that the offence found against the appellant has any reflection of moral turpitude.

The division bench has held that no enquiry was made regarding the truth of the case put forth in defense. It is accordingly the appeal has been dismissed.

17. Though any ruling of the Apex Court specifically on the point has not been brought to my notice, the counsel for the petitioner has referred to two judgments of the Apex Court indicative of the nature of offence under Section-138 of NI Act. In TGN KUMAR VS. STATE OF KERALA AND OTHERS reported in AIR 2011 SC 708 reference was made to the full bench to decide the issue whether appearance is required while holding trials, particularly in cases involving offence under Section-138 of NI Act and also all other cases involving offences which are technical in nature and do not involve moral turpitude. There is an implication in this that offence under Section-138 is not one involving moral turpitude. Reference was also made to the decision in M/S BHASKAR INDUSTRIES LTD. VS. M/S BHIWANI APPARELS LTD. reported in 2001 7 SCC 401 where the Apex Court has observed that since offences under Section-138 are galloping up in Criminal Courts trial under the section should be as that of a summons case. These observations of the Apex Court are in tune with the reasoning given in the decisions referred to earlier.

18. It could be seen from the purport of the above decisions that mere conviction for an offence under Section-138 of the NI Act is no reason to hold that it is an

offence involving moral turpitude. On the other hand in spite of conviction each case is to be considered based on the facts and circumstances, whether moral turpitude is involved. On going through Ext.M17 again it could be seen that the same stand was taken by the Madras High Court in the applications preferred before it. In Ext. M15 even while observing that Section-138 is an offence involving moral turpitude the Hon'ble High Court has stated:

"I hasten to add that this is only a prima facie opinion expressed by me for the purpose of disposing of the above applications and it is open to the First Defendant to agitate this issue at the time of trial on merits and in accordance with law".

19. It is clear from the above observation that the Court has not taken a final decision as to whether the offence under Section-138 of the NI Act is one involving moral turpitude, but based on the pleadings in the case only an observation was made. In Ext.M17 also the Division Bench had observed referring to SASINDRAN NAIR's case (supra) that the question whether the conviction and sentence under Section-138 of NI Act would amount to offence involving moral turpitude or not depends upon the facts of each case. The Hon'ble High Court has observed that even though the petitioner herein was fully aware of the banking transactions he had failed in his assurance to buy the property for three persons and formed partnership firm while in service and also had issued cheques knowing that those would not be honoured. This conduct was considered to be a relevant factor while considering the conviction and sentence under Section-138 of the NI Act. It was taking into account this conduct and the subsequent conviction it was found that the conviction and sentence of the petitioner would amount to offence involving moral turpitude. This observation was made on the basis of the pleadings only. It could be seen from the order of the Division Bench that the conduct of the person leading to the conviction is also a matter to be taken into account while deciding whether the offence involves moral turpitude. In any case the observations in the above cases were made while considering whether a prima-facie case is made out, and whether the balance of convenience is in favour of the petitioner and could not be treated to be a stigma on the petitioner.

20. On going through the judgment of the Criminal Court, the copy of which is marked as Ext.W9 I do not find any specific finding therein that the petitioner had entered into a partnership business with the brother of the complainants. The only observation is that there is a chance of the accused being a working partner. In Paragraph-12 the Criminal Court has only stated the case of the complainant. It is not the finding. There is also no finding

that the petitioner did real estate business. Of course, there is a plea on the part of the complainant in the Criminal Case that the petitioner had been doing partnership business and had agreed to purchase property while borrowing money, etc. However, this fact did not require specific consideration by the Criminal Court. The only question that was considered by the Criminal Court was whether the cheque was issued for consideration. There was no necessity for the Criminal Court also to enter a finding whether the cheque was issued based on such transactions. The only finding of the Criminal Court is that the cheque which has been issued for consideration has been dishonoured and therefore the petitioner has committed the offence under Section-138 of the NI Act.

21. It is not that all offences involve moral turpitude. There may be certain offences which can be treated as those involving moral turpitude even without any enquiry. If a person is found guilty of an offence under Section-376 of IPC or even for a lesser offence under Section-354 of IPC, without any enquiry those can be treated as offences involving moral turpitude. Some of the economic offences could be treated as offences wherein moral turpitude is involved. Section-138 of NI Act could not be one among them. In spite of the conviction for the offence, it requires a probe whether the offence involves moral turpitude when the background of the case and facts and circumstances are taken into account.

22. In the present case the petitioner was not asked to face an enquiry before he was terminated from service. Based on the report of fact finding committee the petitioner was turned out from service outright. The argument advanced on behalf of the Respondent is that Section-10 of the banking Regulations Act does not contemplate opportunity to be given to the employee before the Bank acts upon the basis of this section. According to the counsel the provision for opportunity to be heard is impliedly excluded by the Section. According to him, this is so because the cause of action for invoking Section-10 is a conviction which has been brought about only after giving opportunity to the employee in a Criminal Court of Law. According to him the removal from service in accordance with Section-10 is only a corollary that flows automatically from a conviction for an offence involving moral turpitude. This argument of the Counsel is totally unacceptable because of the very manner in which the Section-10 is couched. What the section states is that a bank shall not employ or continue the employment of any person who has been convicted of an offence involving moral turpitude. If the section had stopped by the wording "Convicted by a Criminal Court of an offence", the above argument could have been accepted. But when it is accompanied by a rider that the conviction should be of an offence involving moral turpitude, there is a responsibility on the part of the bank to enquire whether the offence for which the

employee was convicted is one involving moral turpitude. This could be done only by an enquiry and is not one to be assumed on the basis of the conviction alone.

23. The counsel for the Respondent has argued that by the very fact that the employee had opportunity in the Criminal Court to defend himself, principles of natural justice have been complied with. He has argued referring to the decisions of the Apex Court that principles of natural justice are not mere matter of form but of substance. He has referred to the decision in *MUNICIPAL COMMITTEE, HOSHIARPUR VS. PUNJAB STATE ELECTRICITY BOARD* reported in 2010 (13) SCC 216 where the Apex Court has held that there may be cases where on admitted and undisputed facts only one conclusion is possible and in such an eventuality the application of principles of natural justice would be a futile exercise and an empty formality. He has also referred to the decision in *SYNDICATE BANK AND OTHERS VS. VENKATESH GURURAO* reported in 2006 3 SCC 150 where the Apex Court has held that to sustain the allegation of violation of principles of natural justice one must establish that prejudice has been caused to him for non-observance of principles of natural justice. It is not a case where it could be concluded based on the conviction alone that moral turpitude is involved. Again, in the absence of an enquiry with the participation of the petitioner prejudice will certainly be caused to the petitioner since the matter requires probe on whether the offence is one involving moral turpitude.

24. What has the Respondent Bank done on receipt of the complaints which is marked as Ext.M10? The bank prepared the preliminary report on the complaints as seen from Ext.M12. The bank also obtained written submissions from the two complainants before making the preliminary report. It is concluded on this unilateral enquiry that the petitioner had borrowed huge sums, was doing business for profit, that there was a criminal case pending against him and he was convicted by a competent Criminal Court. What was the basis for the Bank to come to the conclusion that he was doing business for profit? There is no such finding in the Criminal Court judgment. It was based on the version of two complainants that such a conclusion has been drawn. However, the Bank did not find it necessary to allow the petitioner to participate in the enquiry. It did not find it necessary to initiate proceedings against the petitioner, to give opportunity to the petitioner to defend the case against him. Based on the preliminary report, the termination order marked as Ext.W37 was made by the Disciplinary Authority. The Disciplinary Authority has stated that the written statement of the complainants and order of the Court were considered to arrive at the finding. It was beyond all norms of principles of natural justice to arrive at a finding without giving notice of the enquiry to the petitioner and without allowing him to participate in the enquiry and defend the case.

25. Referring to Section-11A of ID Act, the counsel for the Respondent has argued that only the state that prevailed at the time of the termination only need be taken into account by this Tribunal. The counsel has further argued that even if it is found that it was not proper on the part of the Respondent to pass an order of termination without conducting an enquiry, this is sufficiently rectified by the evidence tendered before the Tribunal. The counsel has been referring to the Firestone Case (1973 1 SCC 813) where the Apex Court has laid the law that even if no enquiry has been held by an employer or if the enquiry held by him is found to be defective the Tribunal in order to satisfy itself about the legality and validity of the order has to give an opportunity to the employer and an employee to adduce evidence and it is open to the employer to adduce evidence for the first time justifying his action and it is open to the employee to adduce evidence contra. The counsel has been referring to the evidence given by MW1 which according to him would sufficiently prove in any case that the petitioner was liable to be terminated from service. The evidence of the witness of the Respondent will not satisfy the required proof. It has been admitted by the witness that the only basis for coming to the conclusion that the petitioner was doing real estate business is the judgment of the Criminal Court. I have already stated that the judgment does not contain any specific finding to this effect. The statement of the complainants have been obtained behind the back of the petitioner and could not be taken into account at all. In any case, according to MW1, only the criminal court judgment was considered for this purpose. But as stated, it does not contain any material to arrive at such a conclusion.

26. Even assuming that the Bank has exercised its power under Section-10 of the Banking Regulations Act properly what would be the consequence of a reversal of the judgment? The Criminal Court judgment on the basis of which the petitioner was terminated from service, on the basis of which a suit was filed against him and he was prevented from functioning as the General Secretary of the Union has been reversed and the petitioner has obtained an acquittal in the case for the offence under Section-138 of NI Act by the time the claim statement was filed before this Court. It has been argued by the counsel for the Respondent that the Respondent has already exercised its power to terminate the petitioner based on Section-10 of the Banking Regulations Act on coming to know of the Criminal Court judgment and therefore the subsequent reversal of the judgment and acquittal of the petitioner would not be of any consequence. It has been argued by him that as on the date of termination the petitioner deserved termination because of his conviction and therefore this has to stand in spite of the reversal of the judgment of conviction by the Magistrate's Court. It has been pointed out, by the

Counsel that a criminal revision petition has been filed against the judgment of acquittal and the same is now pending before the Madras High Court and therefore the acquittal has not become final and for this reason also the order of termination could not be reversed. It is difficult to accept the argument of the counsel. In fact this argument is one that boomerangs and is destructive of the case of the Respondent itself. At the time when the conviction was brought to the notice of the Respondent the petitioner had already preferred an appeal against the conviction and sentence by the Magistrate's Court and had obtained a stay of the sentence. In spite of this the Respondent has lost no time in terminating the petitioner from service. The Respondent never thought it necessary to wait till the appeal is decided. So there is no justification in advancing the argument that the petitioner should wait till the criminal revision petition is decided. As it is, the petitioner is acquitted of the offence that was attributed to him and now there is no stigma of a conviction upon him. The argument of the counsel that the reference itself is whether the termination was justified and therefore the state of affairs that has occurred subsequently could not be taken into account also is to be rejected. In this respect the decision of the Apex Court in STATE BANK OF INDIA AND ANOTHER VS. MOHAMMAD ABDUL RAHIM reported in 2013 (11) SCC 67 relied upon by the counsel for the petitioner is relevant. The Apex Court has held:

"In the present case the Respondent was acquitted by the Appellate Court. There cannot be no manner of doubt that the said acquittal would relate back and the initial order of conviction would stand obliterated. On that basis there can be no manner of doubt that the substratum of the cause that had led to the Respondent's dismissal/discharge in the present case had ceased to exist. The same would entitle him to be reinstated in service, an act that has been duly performed by the Appellate Bank".

The above dictum laid down by the Apex Court would show that the argument for the counsel for the Respondent that the subsequent acquittal shall not be taken into account is to be rejected.

27. The argument that has been advanced by the counsel for the Respondent with much force is that in any case there is loss of confidence on the petitioner so far as the bank is concerned and therefore in any case he could not be reinstated in service. According to the counsel, irrespective of the situation arising out of Section-10 of Banking Regulations Act the Bank had formed an opinion that the petitioner could not be retained in service. It has been pointed out by the counsel that the petitioner has been working as Cashier in the Bank and was dealing with public funds and banking public and because of loss of confidence he could not be retained in his position. The counsel has referred to the decision of

the Supreme Court in FRANCIS KLIEN AND CO PVT. LTD VS. THEIR WORKMEN AND ANOTHER reported in AIR 1972 SC 2414 in this respect. Here the Supreme Court has observed:

“In our view when an employer loses confidence in his employee particularly in respect of a person who is discharging an office of trust and confidence there can be no justification for directing his reinstatement”.

Reference was also made to the decision in L. MICHAEL AND ANOTHER VS. JOHNSON PUMPS LTD. reported in AIR 1975 SC 661 where it was held:

“In the light of what we had indicated it is clear that loss of confidence is often a subjective feeling or individual reaction to an objective set facts and motivations. The Court is concerned with the latter and not with the former or the circumstances may exist which justify a genuine exercise of power of simple termination. In a reasonable case of a confidential or responsible post being misused or a sensitive or a strategic position being abused it may be high risk to keep the employee, once suspicion has started and a disciplinary enquiry cannot be forced on the master”.

Reference was also made to the case STATE BANK OF INDIA VS. DELA BAGCHI reported in AIR 2005 SC 3272 where it was held:

“A Bank Officer is required to exercise higher standards of honesty and integrity. He deals with money of the depositors and customers. Every Officer/employee of the Bank is required to take all possible steps to protect the interest of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank Officer. Good conduct and discipline are inseparable from the functioning of every Officer/employee of the Bank”.

Referring to the above decisions it has been argued by the counsel for the Respondent that every employee of the bank is expected to take all possible steps to safeguard the interests of the bank and the banking public and consequently special onus is upon the employee of a Bank to go out of the way to safeguard all interests of the Bank considering that public money is involved.

28. On going through the above decisions it could be seen that what is referred to is about the attitude of an employee to his Bank and the manner in which he is to perform as an employee in the Bank. So far as the petitioner is concerned, there is no case against him at all that he was not performing his duties as an employee as per the laid down norms and had betrayed the confidence. In fact MW1 herself has given a certificate to the petitioner regarding his performance when he was an employee,

during her cross-examination. She has stated that there was never any complaint of deficiency in cash against the petitioner though he was working as Cashier and has to tally the cash before he leaves the bank. In fact, until the conviction and sentence was brought to the notice of the Bank, the Bank had no complaint against the petitioner regarding his performance as an employee, though his Trade Union activities were irking the Bank. In fact in the decision in MICHAEL's case referred to earlier it has also been held:

.....we would like to add that an employer who believes or suspects that his employee particularly one holding a position of confidence has betrayed the confidence can, if the conditions and terms of the employment permit terminate his employment and discharge him without any stigma attaching to the discharge. But such belief or suspicion of the employer should not be a mere whim or fancy, it should be bonafide and reasonable. It must rest on some tangible basis and power has to be exercised by the employer objectively in good faith which means honestly with due care and prudence”.

It could be seen from the above dictum that it is not as if an employer on a fine morning can terminate the service of the employee declaring that he has lost faith on the employer. There should be some basis for the employer to come to such a conclusion. Such conclusion must be based on relevant facts. MW1 has stated during her Cross-Examination that some deliberation was made before the employee was terminated. However, she has stated that no documents showing such deliberation were produced. In the present case apart from the judgment of conviction which is now nonest there is nothing to show that there was any reason for the Bank to loss confidence on the petitioner.

29. The last argument that has been advanced by the counsel for the Respondent is that the very fact that a criminal case has been pending against him and he was convicted by a Criminal Court was concealed by the petitioner is sufficient for the Bank to lose confidence on the petitioner. It has been pointed out by the counsel that it was only because two complaints were made to the Bank referring to the conviction the Bank came to know about the same. According to the counsel it was incumbent upon the petitioner to inform the Bank about the case and the subsequent conviction. It has been pointed out by the counsel for the petitioner that the Respondent has not pointed out any provision requiring the employee to give any such information. Probably this argument of the counsel is not so attractive since the very purpose of Section-10 of the Banking Regulations Act which is the one providing for termination on conviction of an employee for an offence involving moral turpitude will be lost in such case. It could not be that a person who

was convicted and yet successfully concealed the same from the employer can continue in service. Though, there was no rule to the effect, probably the employee owed it to the Bank to give such information in view of the very section. However, in the present case the result of the non-disclosure on the part of the petitioner could not be so drastic as to be visited with the consequence of termination from service. Termination will be the consequence only if the offence is one involving moral turpitude. A borrowel of money simplicitor could not be termed as an offence involving moral turpitude, as already found. So the petitioner could not be found fault with for not bringing the conviction to the notice of the employer. So the contention that there was suppression of the fact of conviction by the petitioner could not be accepted. For this reason itself the argument that this itself is sufficient reason for loss of confidence also could not be accepted.

30. The counsel for the Respondent has also argued that in the background of what has happened the relation between the Bank and the employer has become strained and it is not feasible for the Bank to take him back in service. The counsel has referred to the fact that the petitioner has alleged that the criminal proceedings were initiated at the instance of the Bank. Thus according to him, there is mutual loss of confidence between the Bank and the petitioner and it would not be in the interests of the Bank or even the petitioner to continue in service. The counsel has also referred to the decision in WORKMEN OF BHARAT FRITZ WERNER PVT. LTD VS. BHARAT FRITZ WERNER PVT LTD. reported in 1990 2 LLJ 226 where it was held that if it is felt that it is not desirable or expedient to direct reinstatement the workman can be compensated monetarily by awarding compensation in lieu of reinstatement. However, this is only in cases where the employee is found guilty of an activity subversive or prejudicial to the interests of the employer. In the present case it cannot be stated so. Nothing has been pointed out against the petitioner other than the conviction which has been subsequently reversed. So even this argument is to be rejected. I find that the petitioner was terminated from service without any justification. He is therefore entitled to be reinstated in service. Accordingly, an award is passed as follows:

“The Respondent is directed to reinstate the petitioner in service within one month of the award with 50% back wages, continuity of service and other attendant benefits. If back wages is not paid within one month of the award the Respondent is liable to pay interest @ 9% per annum from the date of the award”.

The reference is answered accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1st Party/ : WW1, Sri M. Lakshmanan
Petitioner

For the 2nd Party/ : MW1, Sri Pinaki Sankar Roy
Management Choudhury

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	17.01.2001	Minutes signed between Management and Union
Ex.W2	17.06.2003	Announcement ERO Scheme through e-mail by the Management
Ex.W3	15.07.2003	Letters from members of the Union
Ex.W4	21.07.2003	Management's acknowledgement of Writ Petition filed by the Union through e-mail
Ex.W5	28.07.2003	Management's acknowledgement on Writ Petitions for ERO, Pension Scheme and for mass transfer
Ex.W6	01.08.2008	Management's mail communication that about 1800 workers opted for RO (800 are Union members)
Ex.W7	05.08.2008	TNBEF circular announcing dharna against Respondent Bank for victimization of Union members
Ex.W8	24.09.2003	Management's mail announcing promotion
Ex.W9	19.05.2004	Statement filed under ID Act against malafides transfer
Ex.W10	30.08.2004	Union's letter to revoke transfer orders
Ex.W11	15.06.2004	Union's letter requesting the appointment of the official for bilateral negotiations on the prevailing issues
Ex.W12	05.09.2005	Union wrote letter to the Management requesting appointments on wage settlement
Ex.W13	17.10.2005	Management's announcement of stopping check off facility given to the Union in which the petitioner was General Secretary

Ex.W14	03.11.2005	Letter to the Management seeking appointment to settle the issues	Ex.W33	28.08.2010	Union's objection against such unfair labour practice and malafides transfers
Ex.W15	24.12.2005	Letter to the management seeking appointment to settle the issues	Ex.W34	28.08.2010	Objection letter given by the Union against the restriction clause in the appointment order
Ex.W16	10.01.2006	Letter written by the Union seeking to restore the check off system	Ex.W35	28.08.2010	Union's letter to Management seeking to confer permanency to all temporary staff.
Ex.W17	07.04.2006	Letter for wage negotiation	Ex.W36	28.08.2010	Objection letter given by the Union for one to one meeting thereby threatening to opt for promotion
Ex.W18	07.04.2006	Letter for restructuring working hours	Ex.W37	03.09.2010	Order of termination issued to the petitioner
Ex.W19	18.04.2006	Letter seeking appointment for negotiations	Ex.W38	11.09.2010	ICICI BEU Minutes decided to take up the issue of termination of General Secretary of the Union
Ex.W20	12.11.2008	Lawyer's notice issued by the Complainant G. Ramesh	Ex.W39	04.10.2010	Minutes of Special Executive Committee
Ex.W21	12.11.2008	Lawyer's notice issued by the Complainant Raja	Ex.W40	11.10.2010	Telegram sent by various members to Deputy Commissioner of Labour
Ex.W22	12.11.2008	Lawyer's notice issued by the Complainant Ramdoss	Ex.W41	12.10.2010	Letters/Minutes addressed by the members to Union
Ex.W23	20.11.2008	Reply notice issued by the petitioner	Ex.W42	-	Written argument submitted by the petitioner in C.A. No. 23, 24 and 25 in the District & Sessions Court (Appellate Court)
Ex.W24	12.08.2009	Deposition given by Complainant Ramesh on behalf of other complainants in the Judicial Magistrate Court	Ex.W43	05.12.2012	Judgment passed in C.A. No. 23, 24 and 25 in the District & Sessions Court (Appellate Court)
Ex.W25	05.03.2010	Mail sent by the Union to settle the pending issues	Ex.W44	22.09.2010	Notice for extra ordinary general body meeting
Ex.W26	12.05.2010	Mail sent by the Union to settle the pending issues	Ex.W45	02.10.2010	Minutes of the Extra Ordinary General Body Meeting
Ex.W27	21.05.2010	Mail sent by the Union to settle the pending issues	Ex.W46	04.10.2010	E-mail by Management to all members of the Union to attend a meeting
Ex.W28	23.05.2010	Mail sent by Union to settle the HRA issues	Ex.W47	05.10.2010	Minutes of the extraordinary General Body Meeting
Ex.W29	08.07.2010	Mail sent by Bank Karmachari Sena to Management seeking to resolve pending issues	Ex.W48	05.10.2010	Communication of dissolution of Union to the Management
Ex.W30	23.08.2010	Management's order of transfer issued to the petitioner transferring him to Sriperumbudur	Ex.W49	10.12.2013	Jewel Loan receipts for the value of Rs. 5.64 lakhs
Ex.W31	23.08.2010	Management's announcement of OJP (promotion)			
Ex.W32	27.08.2010 to 11.10.2010	Transfer orders issued various employees after to announcing promotion			

Ex.W50 21.02.2014 Jewel Loan for the value of Rs. 1.26 lakhs

On the Management's side

Ex.No.	Date	Description
Ex.M1	25.07.2003	Copy of order passed in WP Misc. Petition No. 21492 of 2003 in WP No. 17182 of 2003
Ex.M2	01.01.2003	Copy of order passed in WP No. 31033 of 2003 and WPMP No. 37802 of 2003 and WVMP No. 2165 of 2003
Ex.M3	-	Copy of Affidavit of ICICI Bank Employees Union in CS 807 of 2010
Ex.M4	23.01.1980	Order of appointment
Ex.M5	27.09.2001	Copy of memorandum of settlement u/s 18(1) r/w 2(p) of ID act 1947 between ICICI Bank and ICICI Bank Employees Union
Ex.M6	04.12.2003	Copy of Resolution of ICICI Bank Employees Union
Ex.M7(a)	03.10.2008	Copy of cheque issued to Mr. G. Ramesh
Ex.M7(b)	-	Copy of cheque issued to Mr. G. Ramadoss
Ex.M7(c)	24.10.2008	Copy of cheque issued to Mr. G. Raja
Ex.M8	22.12.2009	Copy of deposition of the petitioner Mr. M. Lakshmanan in the Magistrate Court
Ex.M9	18.03.2010	Copy of order passed by Judicial Magistrate, Alandur in CC 10/2009 alongwith translation
Ex.M10	30.08.2010	Copy of the email sent by Mr. G. Ramadoss and G. Ramesh
Ex.M11	31.08.2010	Copy of written submissions given by Mr. G. Ramadoss and G. Ramesh
Ex.M12	31.08.2010	Preliminary report by the Respondent Bank
Ex.M13	-	Copy of affidavit of ICICI Bank Employees Union in CS 807 of 2010 filed in support of Interim Application

Ex.M14 21.09.2010 Copy of order passed in OA Nos. 1005 of 2010 in CS 807 of 2010

Ex.M15 01.10.2010 Copy of order passed in OA Nos. 1005 to 1007 of 2010 in CS 807 of 2010

Ex.M16 07.10.2010 Copy of the Original Side Appeal and Affidavit (OSANo. 333, 334 and 335 of 2010) filed by Mr. M. Lakshmanan

Ex.M17 14.12.2010 Copy of Division Order passed in OSA No. 333, 334 and 335 of 2010

Ex.M18 01.08.2011 Copy of Order passed in SLP No. CC 12289-12291/2011

Ex.M19 12.01.2011 Copy of Affidavit of Mr. A.L. Kalayappan

Ex.M20 13.01.2011 Copy of order passed by the Additional Registrar of Trade Unions, Madurai alongwith translation

Ex.M21 19.04.2011 Copy of affidavit (CS no. 807 of 2010) filed by Mr. M. Lakshmanan

Ex.M22 - Copy of Code Business Conduct and Ethics

Ex.M23 - Copy of Criminal Appeal filed by Mr. G. Raja against Mr. M. Lakshmanan

Ex.M24 - Copy of Criminal Appeal filed by Mr. G. Ramesh against Mr. M. Lakshmanan

Ex.M25 - Copy of Criminal Appeal filed by Mr. G. Ramadoss against Mr. M. Lakshmanan.

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 182/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/270/1999-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 182/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/270/1999-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.1, DHANBAD

Reference: No.182 /1999

In the matter of reference U/S 10 (1) (d) (2A) of I.D.Act, 1947.

Parties:

Employer in relation to the management
of State Bank of India, Zonal Office,
Ranchi

AND

Their workmen

Present : Sri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : None

For the workman : Sri B. R. Rawat, Advocate

State : Jharkhand Industry : Banking

Dated 29/9/2014

AWARD

By Order No.L-12012/270/1999 -IR -(B-I) dated 15/11/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether Sri Rajgir Manjhi, Sweeper worked for more than 240 days, with the State Bank of India, Daltonganj ? If so whether the action of management Bank in terminating the services of Sri Rajgir Manjhi w.e.f. 31.12.96 is justified? If not, to what relief the workman is entitled to?”

2. The case is received from the Ministry of Labour on 07.12.1999. After notice both parties appeared. The workman files their written statement on 03.01.2000. The Management files their written statement -cum- rejoinder

on 12.06.2000. Thereafter the workman files their rejoinder and document. One witness is examined on behalf of the management as MW-1 and document marked as M-1 to M-2/1 as well as one document is also marked as W-1.

3. The short point that is involved in this case whether the workman is to be regularized as messenger in the Bank or not. The claim of the workman is that they were engaged by the Bank Manager and they were rendering service continuously but the Bank Management without any reason asked them not to come bank to work.

4. On the other hand the Management claimed that they were mere casual / daily wage employee of the Bank and they are called to Bank as and when required if occasion arises. They were not in the pay role of the Bank nor regular employee of the Bank.

5. Bank Personnel has been examined in the case as MW.1 and they support their stand. The workman filed document regarding payment etc but it is seen that they did not complete 240 days in a calendar year.

6. Considering the facts and circumstances of this case, I hold that the at this situation it is held that the Bank Management to accept them as casual employee/ daily wagger and they be engaged in the Bank as and when required by the Bank Management.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 25 नवम्बर, 2014

का.आ. 3055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद के पंचाट (संदर्भ संख्या 183/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 18-11-2014 को प्राप्त हुआ था।

[सं. एल-12012/287/1999-आईआर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 25th November, 2014

S.O. 3055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 183/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 18/11/2014.

[No. L-12012/287/1999-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.1, DHANBAD****Reference No. 183/1999**

In the matter of reference U/S 10 (1) (d) (2A) of I.D. Act,
1947.

Parties:

Employer in relation to the management
of State Bank of India, Zonal Office,
Ranchi

AND

Their workmen

Present : Sri R.K.Saran, Presiding Officer.

Appearances:

For the Employers : None

For the workman : Sri B. R. Rawat, Advocate

State : Jharkhand Industry : Banking

Dated 29/9/2014

AWARD

By Order No.L-12012/287/1999 -IR (B-I) dated 15/11/1999 the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub -section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

“Whether Sri Ravi Kumar, workman worked for more than 240 days, with the State Bank of India, Daltonganj ? If so whether the action of management of Bank in terminating the services of Sri Ravi Kumar w.e.f. 08.08.95 is justified? If not, to what relief the workman is entitled to?”

2. The case is received from the Ministry of Labour on 07.12.1999. After notice both parties appeared. The workman files their written statement on 03.01.2000. The Management files their written statement -cum- rejoinder on 24.05.2000. Thereafter the workman files their rejoinder and document. One witness is examined on behalf of the management as MW-1 and document marked as M-1 to M-3 as well as one document is also marked as W-1. & W-2.

3. The short point that is involved in this case whether the workman is to be regularized as Messenger in the Bank or not. The claim of the workman is that they were engaged by the Bank Manager and they were rendering service continuously but the Bank Management without any reason asked them not to come for work.

4. On the other hand the Management claimed that they were mere casual / daily wage employee of the Bank

and they are called to Bank as and when required if occasion arises. They were not in the pay role of the Bank nor regular employee of the Bank.

5. Bank Personnel has been examined in the case as MW.1 and they support their stand. The workman filed document regarding payment etc but it is seen that they did not complete 240 days in a calendar year.

6. Considering the facts and circumstances of this case, I hold that, at this situation it is held that the Bank Management to accept them as casual employee/daily wagger and they be engaged in the Bank as and when required by the Bank Management.

This is my award.

R. K. SARAN, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2014

का.आ. 3056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन ओवरसिज बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, मुंबई के पंचाट (क.स. औ.अ. 50/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-11-2014 को प्राप्त हुआ था।

[सं. एल-12011/36/2009-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2014

S.O. 3056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2009) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the management of Indian Overseas Bank and their workmen, received by the Central Government on 26/11/2014.

[No. L-12011/36/2009-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2, MUMBAI**

PRESENT : K.B. KATAKE, Presiding Officer

REFERENCE NO. CGIT-2/50 of 2009

Employers in relation to the Management of Indian
Overseas Bank

The General Manager
Indian Overseas Bank, Regional Office (M)
Maker Tower 'E', 5th floor
Cuffe Parade Mumbai 400 005.

AND

Their Workmen
The General Secretary
Indian Overseas Bank Karmachari Sena
206-F, 9, Kranti Nagar Junction
Shankar Seth Road
Girgaon
Mumbai 400 004.

APPEARANCES :

For the Employers : Mr. S. V. Alva, Advocate
For the Union : Mr. Arun Kotkar, Representative
Mumbai, dated the 31st January, 2014.

AWARD

The Government of India, Ministry of Labour & Employment by its Order No.L-12011/36/2009-IR (B-II), dated 02.06.2009 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2 (A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following industrial dispute to this Tribunal for adjudication:

“Whether the demand of the Indian Overseas Bank Karmachari Sena claiming for regularisation/permanency of Shri Rajendra Pandurang Satam in the services of Indian Overseas Bank, Mumbai is legal nad justified? What relief the workman is entitled to?”

2. After receipt of the reference, both parties were served with notice. In response to the notice second party union filed its Statement of claim at Ex-5. The matter was fixed for filing written statement by the first party management.
3. Meanwhile on the request of the both parties, matter was kept in the lokadalat. Representatives of both the parties filed joint purshis Ex-14 praying to dispose of this reference as per consent terms. Accordingly, vide Ex-15, matter was placed before this Tribunal for passing orders. Hence the order:

ORDER

Vide Ex-14 & 15, the dispute is settled in Lokadalat dated 31/01/2014. Hence reference stands disposed of
Date: 31.01.2014

K. B. KATAKE, Presiding Officer

Ex-14

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO.2**

Ref. No. CGIT-2/50 OF 2009

Indian Overseas Bank : First Party

V/s.

Indian Overseas Bank : Second Party
Karmachari Sena

MAY IT PLEASE THIS HON'BLE TRIBUNAL

Both the parties agree that the above reference be disposed of in terms of Award on the following consent terms.

1. The second party is entitled for back wges as part time sweeper at 1/3 scale wages as having joined the Bank w.e.f. 1/9/2004. However the daily wages paid if any from 1/9/2004 till 31/5/2009 will be recovered.
2. The second party will not be entitled for any other monetary and non-monetary benefits for the period between 1/9/2004 and 31/5/2009.
3. The period from 1/9/2004 to 31/5/2009 shall be treated as qualifying service for the purpose of terminal benefits.
4. The second party will be entitled for seniority w.e.f. 1/9/2004 or the purpose of promotion only and as a special case without creating any precedent.
5. The second party will be paid arrears of salary till date as if he has joined the services of the Bank on 1/9/2004 giving notional increment after deducting the salary already paid to him from 1/6/2009.

Mumbai dated this 31st day of January 2014.

Sd/-

(Prabhakar B.)
Asst. Gen. Manager

Sd/-
(S. V. Alva)

Adv for Bank

Filed

Sd/-

Presiding Officer, CGIT-2, Mumbai

Sd/-

(Arun Kotkar)
Union Representative

Sd/-
(workman)

Ex-15

**PROCEEDINGS BEFORE THE LOKADALAT HELD
ON 31st JANUARY 2014**

Panel Members:-

1. Mr. S.Z. Choudhary, Adv
2. Mr. M.B. Anchan, Adv.
3. Mr. J. H. Sawant, Adv

Reference No.CGIT-2/50 of 2009

EEmployers in relation to the Management of Indian Overseas Bank

AND

Their Workmen

Present :

For the Management : Shri Alva, Adv.
 For the Workman : Mr. Arun Kotkar, Union
 Representative alongwith
 workman

Management Representative & Union
 Representative : Present. Both parties confirm that second
 party would be entitled for back wages as part time
 sweeper. The detailed terms are mentioned in joint
 application dated 31/1/2014 and both parties pray that
 Reference be disposed of in terms of the said terms.

The Hon'ble Tribunal would be passing appropriate
 orders.

Sd/-	Sd/-
(S.V. Alva)	(M.B. Anchan)
Adv for management	Panel Member
Sd/-	Sd/-
(Adv. J. H. Sawant)	(Adv. S.Z. Choudhary)
Panel Member	Panel Member
Seen	
Sd/-	Sd/-
(K.B. Katake)	(A. Kotkar)
PO, CGIT-2, Mumbai.	Union Rep.

नई दिल्ली, 26 नवम्बर, 2014

का.आ. 3057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नैशनल बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 68/08) को प्रकाशित करती है जो केन्द्रीय सरकार को 26-11-2014 को प्राप्त हुआ था।

[सं. एल-12011/68/2008-आईआर (बी-II)]

रवि कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2014

S.O. 3057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 68/08) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Kanpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank and their workmen, received by the Central Government on 26/11/2014.

[No. L-12011/68/2008-IR (B-II)]

RAVI KUMAR, Desk Officer

ANNEXURE

**BEFORE SRI RAM PARKASH HJS PRESIDING
 OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
 TRIBUNAL-CUM-LABOUR COURT, KANPUR**

Industrial Dispute No. 68 of 08

Between-

The Secretary,
 Punjab National Bank Workers Union,
 128/F/75 Kidwai Nagar,
 Kanpur

Versus

The Assistant General Manager,
 Punjab National Bank,
 Regional Office,
 Birhana Road Kanpur.

AWARD

1. Central Government, MoL, New Delhi vide notification no. L-12011/68/2008 IR (B-II) dated 16.09.2008, has referred the following dispute for adjudication to this tribunal-
2. Whether the action of the management of Punjab National Bank Kanpur in terminating the service of Sri Ravi Kant part time Sweeper Halsey Road Branch with effect from 01.12.2003 is legal and justified? What relief the workman concerned is entitled to?
3. Brief facts are-
4. It is alleged by the workman through its Union Secretary, that the claimant was appointed by the bank on April 1st 2001 as part time employee of the bank and was posted at Halsey Road Branch of the bank after fulfilling all the formalities required to be completed prior to appointment in the bank including production of satisfactory medical certificate. His weekly working hours were 29 hours and he was paid $\frac{3}{4}$ of scale wages meant for subordinate staff of the bank. His appointment was made in the permanent and regular vacancy caused due to retirement of Smt. Maiki who has since retired from the service of the bank as part time sweeper on March 31st 2001. His initial appointment was temporary and the bank was required to make arrangement for permanently filling up the vacancy as per requirement of the provision of the BPS. But the management with malafide and bad motive and in pursuance of policy of unfair labour practice did not issue any appointment letter to the workman as per mandatory requirement of para 495 of Shastry Award. As the opposite party did not fill up the vacancy within the stipulated period, therefore, the workman was entitled to be deemed as put on probation for all practical purposes, as such he successfully completed the period of probation of six months and thereafter he is deemed to be in permanent employment of the bank.

5. Opposite party has confirmed the appointment of the workman in the service of the bank in proceedings before the RLC Kanpur, a copy of the proceedings dated 29.04.2008 has been annexed as annexure IV.

6. All of a sudden the services of the workman were terminated on 01.12.2003 under the bank's policy of hire and fire without assigning any reason and without issuing any notice or without following the laid down procedure.

7. Therefore, he has prayed that the workman may be reinstated in the service of the bank with all consequential benefits. It is also prayed that the wages for Sundays and holidays be also provided to him.

8. Opposite party has filed the written statement contradicting the claim of the workman. They have stated that the workman was engaged on casual / temporary basis for cleaning of the premises of branch Halsey Road Kanpur in stop gap arrangement after the retirement of Smt. Maiki Part time sweeper on 31.03.2001 for which he was duly compensated.

9. Sri Krishan kumar was the senior most part time sweeper in Kanpur City and he was posted in place of Smt. Maiki at BO Halsey Road Kanpur on 14.11.2002 after following the due procedure. Sri Ravikant never participated in the process of recruitment for permanent appointment nor was he ever issued any appointment letter. His services were utilized whenever needed as a casual labour for cleaning of the premises of the said branch during 1.04.2001 to 13.11.2002 and from Jan. 2003 to Nov. 2003 in stop gap arrangement the workman was engaged for which he was duly compensated. He had not completed 240 days of continuous service counted backwards since 01.12.2003 in any of the consecutive 12 months. As such non continuance of the workman in the stop gap arrangement does not constitute termination. It is also alleged that the claimant cannot be treated as a workman as defined under section 2(s) of the Act. It is further alleged by the bank that the provisions of either Bipartite Settlement or of Sashtry Award are not applicable in the case of the workman and accordingly the claim of the workman is liable to be rejected being devoid of merit and therefore, the claimant is not entitled for any relief.

10. Rejoinder statement has also been filed by the Union but nothing new has been detailed there in.

11. Both the parties have filed the documents.

12. Workman has filed annexure 1 containing the provisions of Sashtry Award, Annexure 2 indicating how a temporary workman may also be appointed to fill a permanent vacancy, Annexure 3 which prescribes how the employees are classified under Desai Award and Annexure 4 minutes of meeting in the appointment of Sri Ravikant.

13. The union has also filed provisions of Sashtry Award, Desai Award etc paper no. 14/1-9.

14. Opposite party has also filed papers no.13/1-2, paper no. 13/3-7 which prescribed the fixation of wages of part time wages in the subordinate cadre and related matters.

15. Workman has adduced in evidence himself as w.w.1.

16. Opposite party has not adduced any evidence in support of their pleadings.

17. The workman has specifically stated on oath that after the retirement of Smt. Maiki he was appointed on 01.04.2001 at the post of sweeper and he worked till 13.11.2002, before appointment he was interviewed, he was medically examined, but he was not issued any appointment letter, his wages were being paid from the salary register, his attendance were being marked in the attendance register and also apart from the work of sweeping he was also utilized to do all other works as of messenger. It is stated on oath that he was never issued any notice before termination; he was not given any retrenchment compensation etc. He has stated that in each calendar year he has completed 240 days.

18. He has been thoroughly cross examined but nothing has come out in his statement which may make his claim unbelievable.

19. Opposite party despite several opportunities did not produce even single witness in support of their case.

20. I have heard and perused the whole case.

21. It is a fact that the opposite party has not issued any appointment letter to the workman, but is also a fact that the workman has been employed /engaged on 1.04.2001 after the retirement of Smt. Maiki. It is the saying of the opposite party as per their w.s. that he has been engaged as casual/temporary basis. But I would like to say that the provisions of Industrial Disputes Act 1947 are carved out by the legislation as social welfare legislation so nobody can exploit the human resources as well as to maintain the industrial harmony. Therefore the provision of the Act does not make any difference between a part time employee or temporary employee or casual labour or regular employee. All such kind categories are fully covered under the provisions of section 2(s), therefore, I am not in agreement with the contention of the opposite party that the workman do not fall within the definition of workman as defined under section 2(s) of the Act. The only requirement under the act is that the person who has been terminated must have completed 240 days in a calendar year preceding 12 months before the date of his termination.

22. In this case the opposite party has specifically admitted in their W.S. at page 4/2 that the workman's

services have been utilized by the branch w.e.f.1.4.2001 to 13.11.2002 and from Jan. 2003 to Nov. 2003. As such the workman has completed for more than 240 days not only in calendar year 2003 but prior to that also when he was in the employment of the bank.

23. Therefore, the statement and evidence adduced by the workman is trustworthy. It has been stated by the opposite party that they have not issued any notice under the provisions of the act or they have not offered any retrenchment compensation to the workman at the time of termination of his service, therefore, according to me there is clear breach of provisions of section 25F of the Act.

24. Therefore, in view of above discussions and considering all the facts and circumstances of the case it is found that the action of the opposite party in terminating the services of the workman with effect from 01.12.2003 was neither just nor fair nor legal.

25. Accordingly it is a fit case where reinstatement of the workman is required and he is accordingly reinstated in the service of the bank at the post from where he was retrenched. Reference is therefore answered in favour of the workman and against the opposite party.

RAM PARKASH, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2014

का.आ. 3058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, लघु शस्त्र निर्माणी, कानपुर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 53/2007) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/11/2014 को प्राप्त हुआ था।

[सं. एल-14011/07/2007-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 27th November, 2014

S.O. 3058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 53/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the General Manager, Small Arms Factory, Kanpur and their workmen, which was received by the Central Government on 26/11/2014.

[No. L-14011/07/2007-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SRI RAM PARKASH, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, KANPUR

Industrial Dispute No. 53 of 2007

Between :

The Vice President,
Bhatriya Mazdoor Sangh,
U.P. SF Mazdoor Union,
106/271, Heera Ganj,
Kanpur

And

The General Manager,
Small Arms Factory,
Kalpi Road,
Kanpur.

AWARD

1. Central Government, MoL, New Delhi, vide notification no.L-14011/07/2007-(IR)(DU) dated 17.0.2007, has referred the following dispute for adjudication to this tribunal-
2. Whether the demand of the Bhartiya Mazdoor Sangh for grant of pay scale of Rs.210-270 to Sri Jiya Lal with effect from 17.10.1985 along with its consequential revision and benefits is legal and justified? If not to what relief the workman is entitled?
3. Brief facts are –
4. It has been alleged by the workman that he was appointed on 07.07.61 as an unskilled labour by the opposite party and he was promoted on 25.02.65 at the post of counter. At the time he was getting scale of 196-210, but the scale of counter SG was 210-270, but the opposite party instead of granting the scale of 210-270, the opposite party fixed the pay of the workman in the same scale pay by granting Rs.3/- as personal pay. Whereas a number of junior person was promoted in the scale of Rs.210-270. He has been raising his grievance before the senior officers of the opposite party but the opposite party did not pay any heed.
5. It is also a fact that the workman superannuated from the service of the opposite party on 31.07.2001.
6. It may be pointed out here that during the pendency of the present reference the concerned workman died and in his place one of his legal heir i.e. his wife Smt. Leela Devi Gupta has been arrayed as a party in the case.
7. He has prayed that he may be allowed benefit of the promotion for the post of counter with effect from 25.02.65.

8. Opposite party has filed the written statement stating therein that the workman was engaged as labour w.e.f. from 07.07.61 in the pay scale of Rs.70-85. That as per third pay commission report the pay scale of counter and labour has been granted to 196-232. The workman was appointed as counter (SG) in the pay scale of Rs.200-240 with effect from 17.10.85. The pay scale of counter (SG) has been granted to Rs.210-270. This was the case of appointment in selection grade; hence individual was not entitled from grant of pay fixation benefits as per 4th pay commission report. The scale of Rs.210-270 has been revised in the pay scale 800-1150 and pay scale of Rs.200-240 had been revised in the pay scale of Rs.750-940. The pay of Sri Jiya Lal had been fixed in the revised scale of Rs.800-1150. Sri Jiya Lal has applied against circular for requirement of over-sear (semi skilled) and he had passed the same and he was promoted as Over-sear with effect from 01.06.93 as over-sear (semiskilled) in the pay scale of Rs.800-1150 and his pay was fixed from 1010-1050. After completion of 3 years in Semiskilled grade Sri Jiya Lal was promoted at the post of Line Mistry in the pay scale of Rs.950-1500 as such the action of the management is fair and proper and claimant is not legally entitled to claim anything.

9. They have also raised several technical and legal objection like reference is bad in law, it is not an industrial dispute, he is not workman, therefore, the claim is liable to be dismissed.

10. The claimant has filed as much as 63 documents vide list 8/1-5 and the documents are paper no.8/6-78. Opposite party has also filed after the summoning the application of the workman the service book of the workman.

11. It is pertinent to mention here that prior to the death of the workman he had already adduced his evidence as w.w.1. on affidavit which is paper no.20/01-05.

12. He has stated that he was appointed in a regular vacancy as coolie on 07.07.61 in the pay scale of 196-210. Thereafter he was promoted on the post of counter with effect from 25.02.65, the scale of the counter was Rs.210-270 but the opposite party instead of granting the scale of 210-270 fixed his pay in the same scale of pay 196-210 with providing Rs.3/- per month as personal pay.

13. Opposite party has adduced Sri Deepak Tiwari as M.W. 1, but while he was being cross examined the court has observed that the witness is not a competent officer, he is not well versed with the facts and the opposite party was directed to produce the service record with fixation of pay and it was endorsed on his statement that his evidence shall be deemed to be redundant.

14. I have heard the arguments and perused the whole record including the documents paper no. 8/06-78 as well as the copy of the service book filed by the opposite party.

Amongst these documents paper no.8/13 and 8/7 are very important documents. The existence of these documents have not been denied by the opposite party. These are the official circulars issued by the opposite party. Paper no.8/13 is that document which prescribes for the appointment counter SG with effect from 17.10.85 in the pay scale of 200-240. The name of Sri Jiya Lal is included at serial no. 2. Now it is a fact that scale of 200-240 has been amended and revised to pay scale of 210-270. In this regard the opposite party has issued a circular dated 23.02.89 on the subject i.e. appointment of counter SG and it is written that following amendment is carried out in the circular which was issued for the appointment of counter SG. Pay scale of Rs.200-240 be read as pay scale of Rs.210-270. As this is an amendment / revision carried out by the opposite party for the entire counter SG. This fact has not been denied by the representative for the management during the course of arguments..

15. In this regard I again like to reproduce few lines of the reference i.e. Sri Jiya Lal has demanded the grant of pay scale Rs.210-270 w.e.f.17.10.85 along with its consequential benefits.

16. Therefore when a scale has been amended or revised for all counter SGs, it was not a selection grade as claimed by the opposite party in their pleadings, so why the scale was not given to Sri Jiya Lal with effect from 17.10.85, I could not understand, and there was no reason for the opposite party to withhold the pay scale of Rs.210-270 to Sri Jiya Lal w. e. f. 17.10.85.

17. Therefore, in view of management document paper no.8/13 and 8/17, it is concluded that the workman has been able to prove his claim that he was wrongly prevented or denied the scale of pay Rs.210-270 with effect from 17.10.85.

18. Accordingly he is held entitled for the pay scale of Rs. 210-270 with effect from 17.10.85 with all consequential benefits.

19. It is therefore, directed that the opposite party should fix his pay as on 17.10.85 in the pay scale Rs.210-270, along with its consequential revisions of pay as applicable from time to time and entire arrears of wages should be released within thirty days of the publication of award.

20. It is further held that the workman is not found entitled for any relief with effect from 1965 as has been claimed by him in Para 13 of his claim statement.

21. Reference is answered accordingly in the above terms.

22. It is further ordered that a soft copy of this award be sent at E.Mail address Venugopal.pk@nic.in to the MoL, New Delhi, along with two photocopies of this award.

RAM PARKASH, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2014

का.आ. 3059.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारत संचार निगम लिमिटेड और अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 69/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/11/2014 को प्राप्त हुआ था।

[सं. एल-40012/26/2013-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 27th November, 2014

S.O. 3059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 69/2013) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Bharat Sanchar Nigam Limited and Others and their workman, which was received by the Central Government on 26/11/2014.

[No.L-40012/26/2013-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE SHRI SURENDRA PRAKASH SINGH, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH

Case No. ID 69 of 2013

Reference No. L-40012/26/2013/IR(DU)
dated 24.5.2013

Shri Sadh Ram son of late
Shri Kesru Ram, resident of Village
and PO Janjehli, Tehsil Kumarsain,
Shimla (Himachal Pradesh)

...Workman

Versus

1. The General Manager,
Telecom BSNL, Shimla
Telecom District, Block No. 35,
SDA Complex, Kasumpti,
Shimla (HP).
2. M/S Equinix Guards and
Security Services, VPO
Ambari Malan, Kangra.
3. M/S HP Ex-servicemen
Corporation, Hamirpur,
District Hamirpur (HP)

...Respondents

Appearances :

For the Workman : None

For the Management : Sh. D. R. Sharma for
Respondent No.1.
None for other respondents.

AWARD

Passed On : 11.11.2014

Government of India Ministry of Labour vide notification No. L-40012/26/2012/IR(DU) dated 24.05.2013 has referred the following dispute to this Tribunal for adjudication:

Term of Reference :

“Whether the action of the management of Bharat Sanchar Nigam Ltd. Shimla in terminating the services of Shri Sadh Ram son of Shri Kesru Ram w.e.f. 31.1.2011 who was engaged by General Manager, Shimla through contractor M/S H.P. Ex-servicemen Corporation Hamirpur is just and legal? To what relief the workman is entitled to and what directions are necessary in the matter?”

2. Case repeatedly called. Despite repeated opportunities, none appeared for the workman. Representative of the respondent No. 1 is present. It appears that the workman is not interested to pursue the present reference. In view of the above, the present reference is disposed off for want of prosecution.

3. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh
11.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2014

का.आ. 3060.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार कमांडर वर्क्स इंजीनियर पश्चिमी कमान, एमईएस चंडीमंदिर के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़ के पंचाट (संदर्भ संख्या 33/2011) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/11/2014 को प्राप्त हुआ था।

[सं. एल-13011/02/2011-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 27th November, 2014

S.O. 3060.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 33/2011) of the Central Government Industrial Tribunal-cum-Labour

Court No. 1, Chandigarh now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of the Commander Works Engineer Western Command, MES Chandimandir and their workman, which was received by the Central Government on 26/11/2014.

[No. L-13011/02/2011-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

**BEFORE SHRI SURENDRA PRAKASH SINGH,
PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT-I, CHANDIGARH**

Case No. ID 33 of 2011

Reference No. L-13011/02/2011-IR(DU)
dated 08.02.2012

The Secretary Chandigarh
Area MES Workers Union,
Chandimandir, Distt. Panchkula,
Panchkula (Haryana)

...Workman

Versus

1. The Commander Works Engineer
Western Command, MES, Chandimandir,
Distt. Panchkula,
Panchkula (Haryana)

...Respondent

Appearances :

For the Workman : Sh. R. P. Rana.

For the Management : Ms. Jyoti Chaudhary

AWARD

Dated : 12.11.2014

Government of India Ministry of Labour vide notification L-13011/02/2011-IR(DU) dated 08.02.2012 has referred the following dispute to this Tribunal for adjudication :

Term of Reference :

“Whether the demand of the Chandigarh Area MES Workers Union, Chandimandir, Distt. Panchkula against Commander works Engineer, Western Command, MES, Chandimandir, Dist Panchkula in wrongful promotion of Sh. Ashok Kumar, Electrician to Cable Jointer (HS), is just valid and legal? What relief the Union is entitled to?”

2. The present claim has been presented by the Union against the promotion given to Sh. Ashok Kumar electrician on the post of Cable Jointer from the back date from 2004. It is pleaded by the Union that Ashok Kumar was posted in CWE Ambala area in the year 1988 and

transferred to CWE Chandigarh and his seniority as electrician (S.K) was to be taken from the date of joining in CWE Chandimandir w.e.f. the date, he joined in Chandimandir in the year 1988. That one Sh. Rajinder Kumar was promoted as Electrician (S.H) w.e.f. 01.11.2004 whereas Ashok Kumar was promoted as Electrician HSII on 15.3.2008. Ashok Kumar did not object the seniority list of Electrician HSII and accepted the promotion of electrician HSII and he has not objected the promotion and the same objection was raised by CWE Chandimandir on 04.10.2008 and there is no rule which permit that a tradesman can get two trade promotion. Sh. Ashok Kumar after getting the promotion as Electrician HSII on 15.03.2008 requested for considering his claim for promotion to the post of Cable Jointer which is different channel of promotion. As such Electrician and Cable Jointer are having different channel of promotion and once he got promotion as Electrician HSII on 15.03.2008, he is not entitled to promotion as Cable Jointer and his request was rejected on 04.10.2008 by CWE Chandimandir. It is further pleaded by the union that vide letter dated 16.02.2010 CWE Chandimandir considered his claim for promotion for the Cable Jointer and was allowed for promotion from back date i.e. 19.08.2004 as Cable Jointer, though there was no vacancy of Cable Jointer for the period 2004-2008 which shows arbitrariness and favouritism to Sh. Ashok Kumar which is not permissible in the eyes of law. As seniority of Sh. Ashok Kumar was to be fixed bottom as per CPRO 73/73. Therefore the action of the management in giving promotion and seniority to Ashok Kumar is illegal and the same deserved to be declared as illegal.

3. Management filed reply. Preliminary objection has been taken that the present reference is not maintainable on the ground of non-joinder of necessary parties as the union challenge the seniority of Sh. Ashok Kumar who is necessary and aggrieved party who was not made the party in the claim statement and the union has no locus standi and the promotion of the Ashok Kumar was rightly done as per rule. Ashok Kumar passed the trade test of Cable Jointer while serving in G.E South Ambala in the year 1985 and he was posted in Chandimandir area in 1988. Sh. Ashok Kumar also posted as Electrician (HS) in the year 2001 and was promoted w.e.f. 15.03.2008. It is further stated by the management that the name of Ashok Kumar till 2004 was not considered for the post of Cable Jointer due to non availability of the vacancy and promotion of Sh. Ashok Kumar to Cable Jointer on 26.02.2010 with seniority w.e.f. 19.08.2004 as earlier promotion order dated 15.03.2008 was cancelled. Opportunity was also given to Sh. Rajinder Kumar but he could not be considered due to non availability of the vacancy. The promotion was given to Ashok Kumar was accepted without financial benefits. It is prayed by the management that as the workman union/

Rajinder Kumar is not entitled to any relief, therefore, the Industrial Dispute deserves to be dismissed with cost.

4. The union in evidence filed affidavit of one Sh. Rajinder Kumar S/o Chetu Ram who was examined and cross-examined as WW1. The workman union also exhibited document W2 to W9. The management filed affidavit of Col. Abhijeet Sharma was examined and cross-examined as MW1. He also relied on document Exb.M3.

5. I have heard the parties and gone through the evidence on record and also written argument of the management. The case of the union is that Ashok Kumar was working in Ambala(CWE) and he was promoted to the post of Cable Jointer w.e.f. 19.08.2004 in the year 2010 when he was already promoted Electrician HS in the year 2008 which is illegal and smack of favouritism. One Rajinder Kumar was promoted as Electrician H.S. w.e.f. 01.11.2004 whereas Ashok Kumar was promoted as Electrician HSII on 15.03.2008 and Sh. Ashok Kumar never objected to the promotion. There are two different channels for promotion for the post of Electrician HS and Cable Jointer. The management arbitrarily promoted Sh. Ashok Kumar as Cable Jointer in the year 2010 on the post of Cable Jointer which was not even existed during the period of 2004-2008. Therefore, it is prayed by the union that the promotion to Sh. Ashok Kumar as Cable Jointer w.e.f. 2004 as there was no vacancy available for the period 2004-2008 may be declared as illegal and invalid.

6. On the other hand the case of the management is that Sh. Ashok Kumar passed the trade test in the year 1985 when he was posted in CWE Ambala and he was rightly promoted as Electrician H.S. and when he was promoted as Cable Jointer in the year 2010 w.e.f. the year 2004. His promotion of Electrician H.S. was cancelled and there is no illegality in the promotion order. Moreover the union has not impleaded necessary party to the reference.

7. From the perusal of the claim statement it is clear that the union through the Secretary Chandigarh Area MES Workers Union, Chandimandir, Distt.Panchkula, Panchkula(Haryana) has presented the claim statement against only one respondent i.e. the Commander Works Engineer Western Command, MES, Chandimandir, Distt.Panchkula, Panchkula(Haryana) and in the claim statement the Union has prayed for acceptance of the reference and for declaring the promotion of Shri Ashok Kumar be declared illegal and appropriate seniority be given in the interest of justice.

8. The reference received from the appropriate Govt is as "Whether the demand of the Chandigarh Area MES Workers Union, Chandimandir, Distt. Panchkula against Commander works Engineer, Western Command, MES, Chandimandir, Dist Panchkula in wrongful promotion of

Sh. Ashok Kumar, Electrician to Cable Jointer (HS), is just valid and legal? What relief the Union is entitled to?

9. The reference also makes it clear that alleged wrongful promotion to Shri Ashok Kumar electrician was referred for adjudication.

10. In the present circumstances it is clear that the relief sought by the workman union is against the promotion of Shri Ashok Kumar which clearly shows that Ashok Kumar is certainly necessary and affected party. But surprisingly Ashok Kumar has not been impleaded as party although the objection has been taken by the management at initial stage in the written statement itself. Besides this WW1 Rajinder Kumar who was examined on behalf of the workmen Union clearly stated in the cross-examination "it is correct that Ashok Kumar is necessary party to the dispute. The Union has demanded the relief for its worker i.e. Rajinder Kumar against Mr. Ashok Kumar. It is correct that the Union to work for the larger interest. Mr. Ashok Kumar is not the member of our union." Thus it is clear that the affected person whose promotion has been challenged through the present reference has not been made party by the Union who espoused the claim against the promotion of Shri Ashok Kumar. In the absence of the affected person i.e. Shri Ashok Kumar, the union is not entitled to claim any relief against his promotion.

11. Reference is answered accordingly. Central Govt. be informed. Soft copy as well as hard copy be sent to the Central Govt. for publication.

Chandigarh

21.11.2014

S. P. SINGH, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2014

का.आ. 3061.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार महाप्रबंधक, केन्द्रीय भण्डारण निगम के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चेन्नई के पंचाट (संदर्भ संख्या 4/2013) को प्रकाशित करती है जो केन्द्रीय सरकार को 26/11/2014 को प्राप्त हुआ था।

[सं. एल-42011/127/2012-आईआर (डीयू)]

पी. के. वेणुगोपाल, डेस्क अधिकारी

New Delhi, the 27th November, 2014

S.O. 3061.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (I.D. No. 4/2013) of the Central Government Industrial Tribunal-cum-Labour Court, Chennai now as shown in the Annexure in the Industrial Dispute between the employers in relation to

the management of the General Manager, Central Warehousing Corporation and their workmen, which was received by the Central Government on 26/11/2014.

[No. L-42011/127/2012-IR(DU)]

P. K. VENUGOPAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 21st November, 2014

Present : K.P. PRASANNA KUMARI,
Presiding Officer

Industrial Dispute No. 4/2013

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of Central Warehousing Corporation, Madurai and their workman)

BETWEEN

The Secretary : 1st Party/Petitioner Union
General Labour Union,
31, Nanmai Tharuvar Kovil,
Arisikara Street,
Madurai-625001

AND

The General Manager : 2nd Party/Respondent
Central Warehousing
Corporation,
Palanganatham,
Madurai-625001

Appearance :

For the 1st Party/ : M/s. N. Ajoy Khose, Advocates
Petitioner Union

For the 2nd Party/ : M/s. P. D. Audikesavalu,
Respondent Advocates

AWARD

The Central Government, Ministry of Labour & Employment vide its Order No. L-42011/127/2012-IR (DU) dated 21.01.2013 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the Management of Central Warehousing Corporation, Madurai in respect of not providing statutory bonus for the year 2010-2011 for the CWC Contract Labourers as claimed by General Labour Union is justifiable or not? If not, what relief the workers are entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 4/2013 and issued notices to both sides. Both sides have entered appearance through their counsel and have filed their claim and counter statement respectively.

3. The averments in the Claim Statement filed by the petitioner in brief are these :

The Respondent is a Public Sector and a Government of India Undertaking functioning under the control of Ministry of Consumer Affairs, Food and Public Distribution. It provides warehousing services to various mill owners, wholesale marketing agencies and distributors who are dealing with various essential commodities. The Respondent would collect charges from the mill owners, marketing agencies, etc. for using their warehousing facilities based on the length of period. The Corporation has a branch at Madurai and it has been functioning for more than 50 years. For loading and unloading of the items brought to the warehouse or being taken from the warehouse the Respondent employs 23 workmen. Apart from carrying out loading and unloading operations, these workmen carry out various works inside the godown such as stacking, de-stacking, re-stacking, fumigation, brushing, cleaning and other activities so as to safeguard the essential commodities stored in the godown. Loading and unloading work will be available only for minimum hours. The major work of the above workmen is the maintenance work in the godown. The workmen have to report for work at 0800 AM in the morning and have to remain in the godown till 0600 PM. The Respondent is employing them on daily rated basis. 12 of the workmen employed in the warehouse of the Respondent are members of the Petitioner Union. Though these workmen have been working continuously with the Respondent for a period ranging from 12 to 32 years they are not given any benefits as provided in various labour welfare legislations. Since the workmen have worked for more than 30 days in each accounting year they are entitled to bonus in accordance with the provisions of Payment of Bonus Act. Since bonus has not been paid for the year 2010-2011 the petitioner had sent a letter to the Respondent demanding bonus. However, there was no response from the Respondent. It is accordingly a dispute has been raised. An order may be passed directing the Respondent to pay bonus to all the workmen at the rate of 3 months gross salary for the accounting year 2010-2011 after adjusting the amount of Rs. 5,000/- already paid to each of the workers.

4. The Respondent has filed Counter Statement contending as follows:

The claim is not maintainable as the concerned workers are not the employees of the Respondent. They are the employees of the Contractors appointed at the warehouse for handling FCI stocks in the loading and

unloading work only. Private persons who avail the service of warehouse engage their own workers. The concerned workers might have been engaged in loading and unloading works by the Contractors who handle the work of FCI. They were not doing the work of stacking, de-stacking, re-stacking, fumigation, etc. The Contractors pay wages to the workers on mutually agreed terms. The Warehousing Corporation has no role in payment of wages. The Corporation ensures compliance of requirements under the provisions of Contract Labour (Regulation and Abolition) Act. There is no employer-employee relationship between the workmen and the Respondent. The amounts are paid to the Labour Maistry who engages his own workforce to do the necessary works of the users of the warehouse. The workmen are not entitled to claim bonus from the Respondent as they are not workmen under Payment of Bonus Act. The petitioner is not entitled to any relief.

5. The evidence in the case consists of oral evidence of WW1 and MW1 and documents marked as Ext.W1 to Ext.W6. The Respondent did not mark any documents on its side.

6. The points for consideration are :

- (i) Whether the action of the Respondent in not paying statutory bonus to the concerned workers for the year 2010-2011 is justified?
- (ii) To what relief, if any the workers are entitled?

The points

7. The dispute is raised by the petitioner union on behalf of 12 of its members who are said to be working as loading and unloading workers in the warehouse of the Respondent at Madurai. According to the petitioner altogether there are 23 men doing the work of loading and unloading at the warehouse. It is claimed by the petitioner that apart from doing the loading and unloading work of the goods brought to the warehouse they are also carrying out works such as Stacking, De-Stacking, Re-Stacking, Fumigation, Cleaning, Spraying, etc. inside the warehouse also. It is stated that the workers have been working in such capacity for a period ranging from 12 to 32 years. According to the petitioner, since the Respondent is employing about 23 workmen it is an establishment covered by Section-1(3)(b) of the Payment of Bonus Act and are entitled to bonus. According to the petitioner, the Respondent is bound to pay bonus @ 8.33% of the wages.

8. Against the contention raised by the petitioner, the stand of the Respondent is that it has not employed any workman for the work of loading or unloading or any work inside the warehouse and there is no employer-employee relationship between them and the Respondent. According to them, the concerned workers might have been employed

by the Contractor. There is no relationship between them and the Respondent at all.

9. One of the 12 workmen named in the Claim Statement has been examined as WW1. He has reiterated the case in the Claim Statement.

10. When the Respondent has taken up a contention that there is no employer-employee relationship between it and the concerned workmen, it is for the petitioner to establish that there is such a relationship but evidence entered by WW1 is not of any help in establishing such a case. On the other hand, the admissions made by WW1 during the cross-examination would reveal that these workmen were never employed by the Respondent. WW1 has admitted that he was not given any Appointment Order by the Respondent. He was not signing any Attendance Register also. Even though the claim of WW1 is that he had been working for 30 years, so far he had not claimed bonus from the Respondent. He has not been signing any salary register. All these would show that he was not working under the Respondent. If this is the case with WW1, the other workers also must have been in the same position.

11. There is no documentary evidence also to establish the case that the 12 workers were employed by the Respondent. The documents produced are those pertaining to the raising of the dispute only. No document showing that the concerned workers were employed by the Respondent are produced.

12. From the admission made by WW1, the case put forth by the Respondent in its Counter Statement becomes more probable. The case set up by the Respondent is that the workers were employed by Contractors who would be paying them. WW1 has admitted that he had been working as Maistry during the year 2007 and 2008 and it was only after this he himself had been signing salary vouchers. Even such vouchers are not produced.

13. There is a case in the Claim Statement that Rs. 5,000/- had been paid by Handling and Transport Contractor towards bonus. The prayer in the Claim Statement is to pay the balance bonus amount deducting this amount of Rs. 5,000/- that has already been paid. From this statement itself it is clear that the workers were working for the Contractor and bonus was payable by the Contractor only. However, during cross-examination WW1 has stated that he has not received the Rs. 5,000/- which he claimed to have received in the Claim Statement as well as in the Affidavit. There is the evidence given by MW1 that there is no employer-employee relationship at all between the concerned workers and the Respondent. In the absence of any acceptable evidence on the part of the petitioner in this respect, the case of the Respondent is to be accepted. I find that the petitioner has failed to establish the case. The petitioner is not entitled to any relief.

14. In view of my discussions above, the reference is answered against the petitioner.

An award is passed accordingly.

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined :

For the 1st Party/ : WW1, Sri G. Palanivel
Petitioner Union

For the 2nd Party/ : MW1, Sri A.T. Sankar
Management

Documents Marked:

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	09.09.2011	Letter submitted by the 1 st Party Union to the 2 nd Party management

Ex.W2	21.10.2011	Dispute raised by the 1 st Party Union before the Assistant Labour Commissioner Central (Madurai)
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Ex.W3	22.11.2011	Reply filed by the 2 nd Party Management before the Asstt. Labour Commissioner
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Ex.W4	03.03.2012	Rejoinder filed by the 1 st Party Union
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Ex.W5	08.05.2012	Remarks filed by the 2 nd Party
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Ex.W6	29.06.2012	Failure Report
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On the Management side

Ex.No.	Date	Description
	N/A	